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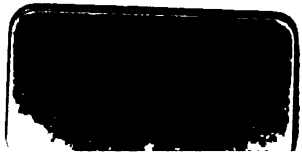
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FIRST SESSION, FORTY-THIRD CONGRESS.

EXECUTIVE DOCUMENTS

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THE HOUSE OF REPRESENTATIVES.

1873-'74.

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Volume 3....No. 1, parts 3 and 4, Navy and Postmaster.
Volume 4....No. 1, part 5, Interior, parts 1 and 2.
Volume 5....No. 1, part 6, and No. 2.
Volume 6....Nos. 3 and 4.
Volume 7....Nos. 5, 36, 124, and 187.
Volume 8....No. 6 to No. 57, inclusive, except No. 36.
Volume 9....No. 58 to No. 122, inclusive.
Volume 10....No. 123 to No. 141, inclusive, except Nos. 124 and 133.
Volume 11....No. 133, Coast Survey.
Volume 12....No. 142 to No. 210, inclusive, except Nos. 143, 183, and 187.
Volume 13....No. 143, Commercial Relations.
Volume 14....No. 183, Commerce and Navigation.
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43D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { Ex. Doc. 1, Part 1.

MESSAGE



OF THE

PRESIDENT OF THE UNITED STATES,

WITH

THE ACCOMPANYING DOCUMENTS,

TRANSMITTED TO

THE TWO HOUSES OF CONGRESS

AT THE

BEGINNING OF THE FIRST SESSION OF THE FORTY-THIRD CONGRESS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1873.

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MESSAGE.

To the Senate and House of Representatives:

The year that has passed since the submission of my last message to Congress has—especially during the latter part of it—been an eventful one to the country. In the midst of great national prosperity a financial crisis has occurred that has brought low fortunes of gigantic proportions; political partisanship has almost ceased to exist, especially in the agricultural regions; and finally, the capture upon the high seas of a vessel bearing our flag has for a time threatened the most serious consequences, and has agitated the public mind from one end of the country to the other. But this, happily, now is in the course of satisfactory adjustment, honorable to both nations concerned.

The relations of the United States, however, with most of the other powers continue to be friendly and cordial. With France, Germany, Russia, Italy, and the minor European powers; with Brazil and most of the South American republics, and with Japan, nothing has occurred during the year to demand special notice. The correspondence between the Department of State and various diplomatic representatives in or from those countries is transmitted herewith.

In executing the will of Congress, as expressed in its joint resolution of the 14th of February last, and in accordance with the provisions of the resolution, a number of "practical artisans," of "scientific men," and of "honorary commissioners" were authorized to attend the exposition at Vienna as commissioners on the part of the United States. It is believed that we have obtained the object which Congress had in view when it passed the joint resolution, "in order to enable the people of the United States to participate in the advantages of the international exhibition of the products of agriculture, manufactures, and the fine arts to be held at Vienna." I take pleasure in adding that the American exhibitors have received a gratifying number of diplomas and of medals.

During the exposition a conference was held at Vienna for the purpose of consultation on the systems prevailing in different countries for the protection of inventions. I authorized a representative from the Patent-Office to be present at Vienna at the time when this conference was to take place, in order to aid, as far as he might, in securing any possible additional protection to American inventors in Europe. The report of this agent will be laid before Congress.

It is my pleasant duty to announce to Congress that the Emperor of China, on attaining his majority, received the diplomatic representa-

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tives of the western powers in person. An account of these ceremonie and of the interesting discussions which preceded them, will be foun in the documents transmitted herewith. The accompanying pape show that some advance, although slight, has been made during the pa year toward the suppression of the infamous Chinese cooly-trade. recommend Congress to inquire whether additional legislation be n needed on this subject.

The money awarded to the United States by the tribunal of arbitr tion at Geneva was paid by Her Majesty's government a few days i advance of the time when it would have become payable according t the terms of the treaty. In compliance with the provisions of the a of March 3, 1873, it was at once paid into the Treasury, and used to r deem, so far as it might, the public debt of the United States; and th amount so redeemed was invested in a five per cent. registered bond c the United States for fifteen million five hundred thousand dollar which is now held by the Secretary of State, subject to the future di position of Congress.

I renew my recommendation, made at the opening of the last sessio of Congress, that a commission be created for the purpose of auditin and determining the amounts of the several "direct losses growing ou of the destruction of vessels and their cargoes" by the Alabama, th Florida, or the Shenandoah, after leaving Melbourne, for which the su ferers have received no equivalent or compensation, and of ascertainin the names of the persons entitled to receive compensation for the same making the computations upon the basis indicated by the tribunal c arbitration at Geneva; and that payment of such losses be authorize to an extent not to exceed the awards of the tribunal at Geneva.

By an act approved on the 14th day of February last, Congress mad provision for completing, jointly with an officer or commissioner to b named by Her Britannic Majesty, the determination of so much of th boundary-line between the territory of the United States and the pos sessions of Great Britain as was left uncompleted by the commissioner appointed under the act of Congress of August 11, 1856. Under th provisions of this act the northwest water-boundary of the Unite States has been determined and marked in accordance with the award o the Emperor of Germany. A protocol and a copy of the map upon whic the line was thus marked are contained in the papers submitted here with.

I also transmit a copy of the report of the commissioner for markin the northern boundary between the United States and the British pos sessions west of the Lake of the Woods, of the operations of the com mission during the past season. Surveys have been made to a poin four hundred and ninety-seven miles west of the Lake of the Woods leaving about three hundred and fifty miles to be surveyed, the field work of which can be completed during the next season.

The mixed commission organized under the provisions of the treat

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of Washington for settling and determining the claims of citizens of either power against the other arising out of the acts committed against their persons or property during the period between April 13, 1861, and April 9, 1865, made its final award on the 25th day of September last. It was awarded that the Government of the United States should pay to the government of Her Britannic Majesty, within twelve months from the date of the award, the sum of $1,929,819 in gold. The commission disallowed or dismissed all other claims of British subjects against the United States. The amount of the claims presented by the British government, but disallowed or dismissed, is understood to be about $3,000,000. It also disallowed all claims of citizens of the United States against Great Britain which were referred to it.

I recommend the early passage of an act appropriating the amount necessary to pay this award against the United States.

I have caused to be communicated to the government of the King of Italy the thanks of this Government for the eminent services rendered by Count Corti as the third commissioner on this commission. With dignity, learning, and impartiality he discharged duties requiring great labor and constant patience, to the satisfaction, I believe, of both governments. I recommend legislation to create a special court, to consist of three judges, who shall be empowered to hear and determine all claims of aliens upon the United States arising out of acts committed against their persons or property during the insurrection. The recent reference under the treaty of Washington was confined to claims of British subjects arising during the period named in the treaty; but it is understood that there are other British claims of a similar nature, arising after the 9th of April, 1865, and it is known that other claims of a like nature are advanced by citizens or subjects of other powers. It is desirable to have these claims also examined and disposed of.

Official information being received from the Dutch government of a state of war between the King of the Netherlands and the Sultan of Acheen, the officers of the United States who were near the seat of the war were instructed to observe an impartial neutrality. It is believed that they have done so.

The joint commission under the convention with Mexico of 1868 having again been legally prolonged, has resumed its business, which, it is hoped, may be brought to an early conclusion. The distinguished representative of Her Britannic Majesty at Washington has kindly consented, with the approval of his government, to assume the arduous and responsible duties of umpire in this commission, and to lend the weight of his character and name to such decisions as may not receive the acquiescence of both the arbitrators appointed by the respective governments.

The commissioners appointed pursuant to the authority of Congress to examine into the nature and extent of the forays by trespassers from

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that country upon the herds of Texas, have made a report, which will be submitted for your consideration.

The Venezuelan government has been apprised of the sense of Congress in regard to the awards of the joint commission under the convention of 25th April, 1866, as expressed in the act of the 25th of February last.

It is apprehended that that government does not realize the character of its obligations under that convention. As there is reason to believe, however, that its hesitancy in recognizing them springs in part at least from real difficulty in discharging them in connection with its obligations to other governments, the expediency of further forbearance on our part is believed to be worthy of your consideration.

The Ottoman government and that of Egypt have latterly shown a disposition to relieve foreign consuls of the judicial powers which heretofore they have exercised in the Turkish dominions, by organizing other tribunals. As Congress, however, has by law provided for the discharge of judicial functions by consuls of the United States in that quarter under the treaty of 1830, I have not felt at liberty formally to accept the proposed change without the assent of Congress, whose decision upon the subject, at as early a period as may be convenient, is earnestly requested.

I transmit herewith for the consideration and determination of Congress an application of the republic of Santo Domingo to this Government to exercise a protectorate over that republic.

Since the adjournment of Congress the following treaties with foreign powers have been proclaimed: A naturalization convention with Denmark; a convention with Mexico for renewing the claim commission; a convention of friendship, commerce, and extradition with the Orange Free State, and a naturalization convention with Ecuador.

I renew the recommendation made in my message of December, 1870, that Congress authorize the Postmaster-General to issue all commissions to officials appointed through his Department.

I invite the earnest attention of Congress to the existing laws of the United States respecting expatriation and the election of nationality by individuals. Many citizens of the United States reside permanently abroad with their families. Under the provisions of the act approved February 10, 1855, the children of such persons are to be deemed and taken to be citizens of the United States, but the rights of citizenship are not to descend to persons whose fathers never resided in the United States.

It thus happens that persons who have never resided within the United States have been enabled to put forward a pretension to the protection of the United States against the claim to military service of the government under whose protection they were born and have been reared. In some cases even naturalized citizens of the United States have returned to the land of their birth, with intent to remain there,

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and their children, the issue of a marriage contracted there after their return, and who have never been in the United States, have laid claim to our protection, when the lapse of many years had imposed upon them the duty of military service to the only government which had ever known them personally.

Until the year 1868 it was left embarrassed by conflicting opinions of courts and of jurists to determine how far the doctrine of perpetual allegiance derived from our former colonial relations with Great Britain was applicable to American citizens. Congress then wisely swept these doubts away by enacting that "any declaration, instruction, opinion, order, or decision of any officer of this Government which denies, restricts, impairs, or questions the right of expatriation, is inconsistent with the fundamental principles of this Government." But Congress did not indicate in that statute, nor has it since done so, what acts are deemed to work expatriation. For my own guidance in determining such questions, I required (under the provisions of the Constitution) the opinion in writing of the principal officer in each of the Executive Departments upon certain questions relating to this subject. The result satisfies me that further legislation has become necessary. I therefore commend the subject to the careful consideration of Congress, and I transmit herewith copies of the several opinions of the principal officers of the executive department, together with other correspondence and pertinent information on the same subject.

The United States, who led the way in the overthrow of the feudal doctrine of perpetual allegiance, are among the last to indicate how their own citizens may elect another nationality. The papers submitted herewith indicate what is necessary to place us on a par with other leading nations in liberality of legislation on this international question. We have already in our treaties assented to the principles which would need to be embodied in laws intended to accomplish such results. We have agreed that citizens of the United States may cease to be citizens, and may voluntarily render allegiance to other powers. We have agreed that residence in a foreign land, without intent to return, shall of itself work expatriation. We have agreed in some instances upon the length of time necessary for such continued residence to work a presumption of such intent. I invite Congress now to mark out and define when and how expatriation can be accomplished; to regulate by law the condition of American women marrying foreigners; to fix the status of children born in a foreign country of American parents residing more or less permanently abroad, and to make rules for determining such other kindred points as may seem best to Congress.

In compliance with the request of Congress I transmitted to the American minister at Madrid, with instructions to present it to the Spanish government, the joint resolution, approved on the 3d of March last, tendering to the people of Spain, in the name and on the behalf of the American people, the congratulations of Congress upon the efforts to

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consolidate in Spain the principles of universal liberty in a republican form of government.

The existence of this new republic was inaugurated by striking the fetters from the slaves in Porto Rico. This beneficent measure was followed by the release of several thousand persons illegally held as slaves in Cuba. Next, the captain-general of that colony was deprived of the power to set aside the orders of his superiors at Madrid, which had pertained to the office since 1825. The sequestered estates of American citizens, which had been the cause of long and fruitless correspondence, were ordered to be restored to their owners. All these liberal steps were taken in the face of a violent opposition directed by the reactionary slaveholders of Havana, who are vainly striving to stay the march of ideas which has terminated slavery in Christendom, Cuba only excepted. Unhappily, however, this baneful influence has thus far succeeded in defeating the efforts of all liberal-minded men in Spain to abolish slavery in Cuba, and in preventing the promised reform in that island. The struggle for political supremacy continues there.

The pro-slavery and aristocratic party in Cuba is gradually arraigning itself in more and more open hostility and defiance of the home government, while it still maintains a political connection with the republic in the peninsula; and although usurping and defying the authority of the home government, whenever such usurpation or defiance tends in the direction of oppression or of the maintenance of abuses, it is still a power in Madrid, and is recognized by the government. Thus an element more dangerous to continued colonial relations between Cuba and Spain than that which inspired the insurrection at Yara—an element opposed to granting any relief from misrule and abuse, with no aspirations after freedom, commanding no sympathies in generous breasts, aiming to rivet still stronger the shackles of slavery and oppression—has seized many of the emblems of power in Cuba, and, under professions of loyalty to the mother country, is exhausting the resources of the island, and is doing acts which are at variance with those principles of justice, of liberality, and of right, which give nobility of character to a republic. In the interests of humanity, of civilization, and of progress, it is to be hoped that this evil influence may be soon averted.

The steamer Virginius was on the 26th day of September, 1870, duly registered at the port of New York as a part of the commercial marine of the United States. On the 4th of October, 1870, having received the certificate of her register in the usual legal form, she sailed from the port of New York, and has not since been within the territorial jurisdiction of the United States. On the 31st day of October last, while sailing under the flag of the United States, on the high seas, she was forcibly seized by the Spanish gun-boat Tornado, and was carried into the port of Santiago de Cuba, where fifty-three of her passengers and crew were inhumanly, and, so far at least as relates to those who

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were citizens of the United States, without due process of law, put to death.

It is a well-established principle, asserted by the United States from the beginning of their national independence, recognized by Great Britain and other maritime powers, and stated by the Senate in a resolution passed unanimously on the 16th of June, 1858, that "American vessels on the high seas in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong; and therefore any visitation, molestation, or detention of such vessel by force, or by the exhibition of force, on the part of a foreign power, is in derogation of the sovereignty of the United States."

In accordance with this principle the restoration of the Virginius, and the surrender of the survivors of her passengers and crew, and a due reparation to the flag, and the punishment of the authorities who had been guilty of the illegal acts of violence, were demanded. The Spanish government has recognized the justice of the demand, and has arranged for the immediate delivery of the vessel, and for the surrender of the survivors of the passengers and crew, and for a salute to the flag, and for proceedings looking to the punishment of those who may be proved to have been guilty of illegal acts of violence toward citizens of the United States, and also toward indemnifying those who may be shown to be entitled to indemnity. A copy of a protocol of a conference between the Secretary of State and the Spanish minister, in which the terms of this arrangement were agreed to, is transmitted herewith.

The correspondence on this subject with the legation of the United States in Madrid was conducted in cipher and by cable, and needs the verification of the actual text of the correspondence. It has seemed to me to be due to the importance of the case not to submit this correspondence until the accurate text can be received by mail. It is expected shortly, and will be submitted when received.

In taking leave of this subject for the present, I wish to renew the expression of my conviction, that the existence of African slavery in Cuba is a principal cause of the lamentable condition of the island. I do not doubt that Congress shares with me the hope that it will soon be made to disappear, and that peace and prosperity may follow its abolition.

The embargoing of American estates in Cuba; cruelty to American citizens detected in no act of hostility to the Spanish government; the murdering of prisoners taken with arms in their hands; and, finally, the capture upon the high seas of a vessel sailing under the United States flag and bearing a United States registry have culminated in an outburst of indignation that has seemed for a time to threaten war. Pending negotiations between the United States and the government of Spain on the subject of this capture, I have authorized the Secretary of the Navy to put our Navy on a war footing, to the extent, at least, of the entire annual appropriation for that branch of the service, trusting to Congress and the public opinion of the American people to justify my action.

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CONSTITUTIONAL AMENDMENTS.

Assuming from the action of the last Congress, in appointing a "Cor mittee on Privileges and Elections," to prepare and report to this Co gress a constitutional amendment to provide a better method of electin the President and Vice-President of the United States, and also fro the necessity of such an amendment, that there will be submitted t the State legislatures, for ratification, such an improvement in our Co stitution, I suggest two others for your consideration:

First. To authorize the Executive to approve of so much of an measure passing the two Houses of Congress as his judgment may di tate, without approving the whole, the disapproved portion, or portions to be subjected to the same rules as now, to wit, to be referred back t the house in which the measure, or measures, originated, and if passe by a two-thirds vote of the two houses, then to become a law withou the approval of the President. I would add to this a provision tha there should be no legislation by Congress during the last twenty-fou hours of its sitting, except upon vetoes, in order to give the Executiv an opportunity to examine and approve or disapprove bills understand ingly.

Second. To provide, by amendment, that when an extra session o Congress is convened by Executive proclamation, legislation during th continuance of such extra session shall be confined to such subjects a the Executive may bring before it, from time to time, in writing.

The advantages to be gained by these two amendments are too obvi ous for me to comment upon them. One session in each year is pro vided for by the Constitution, in which there are no restrictions as t the subjects of legislation by Congress. If more are required, it is always in the power of Congress, during their term of office, to provide for sessions at any time. The first of these amendments would protect the public against the many abuses, and waste of public moneys, which creep into appropriation bills, and other important measures passing during the expiring hours of Congress, to which, otherwise, due consid- eration cannot be given.

TREASURY DEPARTMENT.

The receipts of the Government from all sources for the last fiscal year were $333,738,204, and expenditures on all accounts $290,345,245, thus showing an excess of receipts over expenditures of $43,392,959. But it is not probable that this favorable exhibit will be shown for the present fiscal year. Indeed, it is very doubtful whether, except with great economy on the part of Congress in making appropriations, and the same economy in administering the various departments of Govern- ment, the revenues will not fall short of meeting actual expenses, in- cluding interest on the public debt.

I commend to Congress such economy, and point out two sources

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where, it seems to me, it might commence, to wit, in the appropriations for public buildings in the many cities where work has not yet been commenced; in the appropriations for river and harbor improvement in those localities where the improvements are of but little benefit to general commerce, and for fortifications.

There is a still more fruitful source of expenditure, which I will point out later in this message. I refer to the easy method of manufacturing claims for losses incurred in suppressing the late rebellion.

I would not be understood here as opposing the erection of good, substantial, and even ornamental buildings by the Government wherever such buildings are needed. In fact, I approve of the Government owning its own buildings, in all sections of the country, and hope the day is not far distant when it will not only possess them, but will erect in the capital suitable residences for all persons who now receive commutation for quarters or rent at Government expense, and for the Cabinet, thus setting an example to the States which may induce them to erect buildings for their Senators. But I would have this work conducted at a time when the revenues of the country would abundantly justify it.

The revenues have materially fallen off for the first five months of the present fiscal year from what they were expected to produce, owing to the general panic now prevailing, which commenced about the middle of September last. The full effect of this disaster, if it should not prove a "blessing in disguise," is yet to be demonstrated. In either event it is your duty to heed the lesson, and to provide by wise and well-considered legislation, as far as it lies in your power, against its recurrence, and to take advantage of all benefits that may have accrued.

My own judgment is that, however much individuals may have suffered, one long step has been taken toward specie payments; that we can never have permanent prosperity until a specie basis is reached; and that a specie basis cannot be reached and maintained until our exports, exclusive of gold, pay for our imports, interest due abroad, and other specie obligations, or so nearly so as to leave an appreciable accumulation of the precious metals in the country from the products of our mines.

The development of the mines of precious metals during the past year and the prospective development of them for years to come, are gratifying in their results. Could but one-half of the gold extracted from the mines be retained at home our advance toward specie payments would be rapid.

To increase our exports, sufficient currency is required to keep all the industries of the country employed. Without this, national as well as individual bankruptcy must ensue. Undue inflation, on the other hand, while it might give temporary relief, would only lead to inflation of prices, the impossibility of competing in our own markets for the products of home skill and labor, and repeated renewals of present experiences. Elasticity to our circulating medium, therefore, and just enough

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of it to transact the legitimate business of the country, and to keep all industries employed, is what is most to be desired. The exact medium is specie, the recognized medium of exchange the world over. That obtained, we shall have a currency of an exact degree of elasticity. If there be too much of it for the legitimate purposes of trade and commerce, it will flow out of the country. If too little, the reverse will result. To hold what we have and to appreciate our currency to that standard, is the problem deserving of the most serious consideration of Congress.

The experience of the present panic has proven that the currency of the country, based as it is upon the credit of the country, is the best that has ever been devised. Usually in times of such trials, currency has become worthless, or so much depreciated in value as to inflate the values of all the necessaries of life as compared with the currency. Every one holding it has been anxious to dispose of it on any terms. Now we witness the reverse. Holders of currency hoard it as they did gold in former experiences of a like nature.

It is patent to the most casual observer that much more currency, or money, is required to transact the legitimate trade of the country during the fall and winter months, when the vast crops are being removed, than during the balance of the year. With our present system the amount in the country remains the same throughout the entire year, resulting in an accumulation of all the surplus capital of the country in a few centers when not employed in the moving of crops, tempted there by the offer of interest on call loans. Interest being paid, this surplus capital must earn this interest paid with a profit. Being subject to "call," it cannot be loaned, only in part at best, to the merchant or manufacturer for a fixed term. Hence, no matter how much currency there might be in the country, it would be absorbed, prices keeping pace with the volume, and panics, stringency, and disasters would ever be recurring with the autumn. Elasticity in our monetary system, therefore, is the object to be attained first, and next to that, as far as possible, a prevention of the use of other people's money in stock and other species of speculation. To prevent the latter it seems to me that one great step would be taken by prohibiting the national banks from paying interest on deposits, by requiring them to hold their reserves in their own vaults, and by forcing them into resumption, though it would only be in legal-tender notes. For this purpose I would suggest the establishment of clearing-houses for your consideration.

To secure the former many plans have been suggested, most, if not all, of which look to me more like inflation on the one hand, or compelling the Government, on the other, to pay interest, without corresponding benefits, upon the surplus funds of the country during the seasons when otherwise unemployed.

I submit for your consideration whether this difficulty might not be overcome by authorizing the Secretary of the Treasury to issue, at any

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time, to national banks of issue, any amount of their own notes below a fixed percentage of their issue, say forty per cent., upon the banks depositing with the Treasurer of the United States an amount of Government bonds equal to the amount of notes demanded, the banks to forfeit to the Government, say four per cent. of the interest accruing on the bonds so pledged during the time they remain with the Treasurer, as security for the increased circulation, the bonds so pledged to be redeemable by the banks at their pleasure, either in whole or in part, by returning their own bills for cancellation to an amount equal to the face of the bonds withdrawn. I would further suggest for your consideration the propriety of authorizing national banks to diminish their standing issue at pleasure, by returning for cancellation their own bills and withdrawing so many United States bonds as are pledged for the bills returned.

In view of the great actual contraction that has taken place in the currency, and the comparative contraction continuously going on, due to the increase of population, increase of manufactories, and all the industries, I do not believe there is too much of it now for the dullest period of the year. Indeed, if clearing-houses should be established, thus forcing redemption, it is a question for your consideration whether banking should not be made free, retaining all the safeguards now required to secure bill-holders. In any modification of the present laws regulating national banks, as a further step toward preparing for resumption of specie payments, I invite your attention to a consideration of the propriety of exacting from them the retention, as a part of their reserve, either the whole or a part of the gold interest accruing upon the bonds pledged as security for their issue. I have not reflected enough on the bearing this might have in producing a scarcity of coin with which to pay duties on imports to give it my positive recommendation. But your attention is invited to the subject.

During the last four years the currency has been contracted, directly, by the withdrawal of three per cent. certificates, compound-interest notes, and "seven-thirty" bonds outstanding on the 4th of March, 1869, all of which took the place of legal tenders in the bank reserves to the extent of sixty-three million dollars.

During the same period there has been a much larger comparative contraction of the currency. The population of the country has largely increased. More than twenty-five thousand miles of railroad have been built, requiring the active use of capital to operate them. Millions of acres of land have been opened to cultivation, requiring capital to move the products. Manufactories have multiplied beyond all precedent in the same period of time, requiring capital weekly for the payment of wages and for the purchase of material; and probably the largest of all comparative contraction arises from the organizing of free labor in the South. Now every laborer there receives his wages, and,

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for want of savings-banks, the greater part of such wages is carried in the pocket or hoarded until required for use.

These suggestions are thrown out for your consideration, without any recommendation that they shall be adopted literally, but hoping that the best method may be arrived at to secure such an elasticity of the currency as will keep employed all the industries of the country, and prevent such an inflation as will put off indefinitely the resumption of specie payments, an object so devoutly to be wished for by all, and by none more earnestly than the class of people most directly interested—those who "earn their bread by the sweat of their brow." The decisions of Congress on this subject will have the hearty support of the Executive.

In previous messages I have called attention to the decline in American ship-building, and recommended such legislation as would secure to us our proportion of the carrying-trade. Stimulated by high rates and abundance of freight, the progress for the last year in ship-building has been very satisfactory. There has been an increase of about three per cent. in the amount transported in American vessels over the amount of last year. With the reduced cost of material which has taken place, it may reasonably be hoped that this progress will be maintained, and even increased. However, as we pay about $80,000,000 per annum to foreign vessels for the transportation to a market of our surplus products, thus increasing the balance of trade against us to this amount, the subject is one worthy of your serious consideration.

"Cheap transportation" is a subject that has attracted the attention of both producers and consumers for the past few years, and has contributed to, if it has not been the direct cause of, the recent panic and stringency.

As Congress, at its last session, appointed a special committee to investigate this whole subject during the vacation, and report at this session, I have nothing to recommend until their report is read.

There is one work, however, of a national character, in which the greater portion of the East and the West, the North and the South, are equally interested, to which I will invite your attention.

The State of New York has a canal connecting Lake Erie with tide-water on the Hudson River. The State of Illinois has a similar work connecting Lake Michigan with navigable water on the Illinois River, thus making water-communication inland, between the East and the West and South. These great artificial water-courses are the property of the States through which they pass, and pay toll to those States. Would it not be wise statesmanship to pledge these States that if they will open these canals for the passage of large vessels the General Government will look after and keep in navigable condition the great public highways with which they connect, to wit, the overslaugh on the Hudson, the Saint Clair Flats, and the Illinois and Mississippi Rivers? This would be a national work; one of great value to the producers of the West and South in giving them cheap transportation for their pro-

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duce to the sea-board and a market; and to the consumers in the East in giving them cheaper food, particularly of those articles of food which do not find a foreign market, and the prices of which, therefore, are not regulated by foreign demands. The advantages of such a work are too obvious for argument. I submit the subject to you, therefore, without further comment.

In attempting to regain our lost commerce and carrying-trade, I have heretofore called attention to the states south of us offering a field where much might be accomplished. To further this object I suggest that a small appropriation be made, accompanied with authority for the Secretary of the Navy to fit out a naval vessel to ascend the Amazon River to the mouth of the Madeira; thence to explore that river and its tributaries into Bolivia, and to report to Congress at its next session, or as soon as practicable, the accessibility of the country by water, its resources, and the population so reached. Such an exploration would cost but little; it can do no harm, and may result in establishing a trade of value to both nations.

In further connection with the Treasury Department I would recommend a revision and codification of the tariff laws, and the opening of more mints for coining money, with authority to coin for such nations as may apply.

WAR DEPARTMENT.

The attention of Congress is invited to the recommendations contained in the report of the Secretary of War herewith accompanying.

The apparent great cost of supporting the Army is fully explained by this report, and I hope will receive your attention.

While inviting your general attention to all the recommendations made by the Secretary of War, there are two which I would especially invite you to consider: First, the importance of preparing for war in time of peace by providing proper armament for our sea-coast defenses. Proper armament is of vastly more importance than fortifications. The latter can be supplied very speedily for temporary purposes when needed; the former cannot. The second is the necessity of re-opening promotion in the staff corps of the Army. Particularly is this necessity felt in the Medical, Pay, and Ordnance Departments.

At this time it is necessary to employ "contract surgeons" to supply the necessary medical attendance required by the Army.

With the present force of the Pay Department it is now difficult to make the payments to troops provided for by law. Long delays in payments are productive of desertions and other demoralization, and the law prohibits the payment of troops by other than regular Army paymasters.

There are now sixteen vacancies in the Ordnance Department, thus leaving that branch of the service without sufficient officers to conduct the business of the different arsenals on a large scale if ever required.

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NAVY DEPARTMENT.

During the past year our Navy has been depleted by the sale of some vessels no longer fit for naval service, and by the condemnation of others not yet disposed of. This, however, has been more than compensated for by the repair of six of the old wooden ships, and by the building of eight new sloops of war, authorized by the last Congress. The building of these latter has occurred at a doubly fortunate time. They are about being completed at a time when they may possibly be much needed, and the work upon them has not only given direct employment to thousands of men, but has no doubt been the means of keeping open establishments for other work at a time of great financial distress.

Since the commencement of the last month, however, the distressing occurrences which have taken place in the waters of the Caribbean Sea, almost on our very sea-board, while they illustrate most forcibly the necessity always existing that a nation situated like ours should maintain in a state of possible efficiency a navy adequate to its responsibilities, has at the same time demanded that all the effective force we really have shall be put in immediate readiness for warlike service. This has been and is being done promptly and effectively, and I am assured that all the available ships and every authorized man of the American Navy will be ready for whatever action is required for the safety of our citizens or the maintenance of our honor. This, of course, will require the expenditure in a short time of some of the appropriations which were calculated to extend through the fiscal year, but Congress will, I doubt not, understand and appreciate the emergency, and will provide adequately, not only for the present preparation, but for the future maintenance of our naval force. The Secretary of the Navy has, during the past year, been quietly putting some of our most effective monitors in condition for service, and thus the exigency finds us in a much better condition for work than we could possibly have been without his action.

POST-OFFICE DEPARTMENT.

A complete exhibit is presented, in the accompanying report of the Postmaster-General, of the operations of the Post-Office Department during the year. The ordinary postal revenues for the fiscal year ended June 30, 1873, amounted to $22,996,741.57, and the expenditures of all kinds to $29,084,945.67. The increase of revenues over 1872 was $1,081,315.20, and the increase of expenditures $2,426,753.36.

Independent of the payments made from special appropriations for mail-steamship lines, the amount drawn from the general Treasury to meet deficiencies was $5,265,475. The constant and rapid extension of our postal service, particularly upon railways, and the improved facilities for the collection, transmission, distribution, and delivery of the mails, which are constantly being provided, account for the increased expenditures of this popular branch of the public service.

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The total number of post-offices in operation, on June 30, 1873, was 33,244, a net increase of 1,381 over the number reported the preceding year. The number of presidential offices was 1,363, an increase of 163 during the year. The total length of railroad mail-routes at the close of the year was 63,457 miles, an increase of 5,546 miles over the year 1872. Fifty-nine railway post-office lines were in operation June 30, 1873, extending over 14,866 miles of railroad-routes, and performing an aggregate service of 34,925 miles daily.

The number of letters exchanged with foreign countries was 27,459,185, an increase of 3,096,685 over the previous year, and the postage thereon amounted to $2,021,310.86. The total weight of correspondence exchanged in the mails with European countries exceeded 912 tons, an increase of 92 tons over the previous year. The total cost of the United States ocean-steamship service, including $725,000 paid from special appropriations to subsidized lines of mail-steamers, was $1,047,271.35.

New or additional postal conventions have been concluded with Sweden, Norway, Belgium, Germany, Canada, Newfoundland, and Japan, reducing postage rates on correspondence exchanged with those countries; and further efforts have been made to conclude a satisfactory postal convention with France, but without success.

I invite the favorable consideration of Congress to the suggestions and recommendations of the Postmaster-General for an extension of the free-delivery system in all cities having a population of not less than ten thousand; for the prepayment of postage on newspapers and other printed matter of the second class; for a uniform postage and limit of weight on miscellaneous matter; for adjusting the compensation of all postmasters not appointed by the President, by the old method of commissions on the actual receipts of the office, instead of the present mode of fixing the salary in advance upon special returns; and especially do I urge favorable action by Congress on the important recommendations of the Postmaster-General for the establishment of United States postal savings depositories.

Your attention is also again called to a consideration of the question of postal telegraphs, and the arguments adduced in support thereof, in the hope that you may take such action in connection therewith as in your judgment will most contribute to the best interests of the country.

DEPARTMENT OF JUSTICE.

Affairs in Utah require your early and special attention. The Supreme Court of the United States, in the case of Clinton *vs.* Englebrecht, decided that the United States marshal of that Territory could not lawfully summon jurors for the district courts; and those courts hold that the territorial marshal cannot lawfully perform that duty, because he is elected by the legislative assembly and not appointed as provided for in the act organizing the Territory. All proceedings at law are practically abolished by these decisions, and there have been but few or no

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jury trials in the district courts of that Territory since the last sessio of Congress. Property is left without protection by the courts, an crimes go unpunished. To prevent anarchy there, it is absolutely nec essary that Congress provide the courts with some mode of obtainin jurors, and I recommend legislation to that end; and also that the pro bate courts of the Territory, now assuming to issue writs of injunctio and *habeas corpus*, and to try criminal cases and questions as to land titles, be denied all jurisdiction not possessed ordinarily by courts o that description.

I have become impressed with the belief that the act approved Marc 2, 1867, entitled "An act to establish a uniform system of bankruptc throughout the United States," is productive of more evil than good a this time. Many considerations might be urged for its total repeal, but if this is not considered advisable, I think it will not be seriously ques tioned that those portions of said act providing for what is called in voluntary bankruptcy operate to increase the financial embarrassment of the country. Careful and prudent men very often become involve in debt in the transaction of their business, and though they may posses ample property, if it could be made available for that purpose, to mee all their liabilities, yet, on account of the extraordinary scarcity o money, they may be unable to meet all their pecuniary obligations a they become due, in consequence of which they are liable to be pros trated in their business by proceedings in bankruptcy at the instanc of unrelenting creditors. People are now so easily alarmed as to mone tary matters that the mere filing of a petition in bankruptcy by an un friendly creditor will necessarily embarrass, and oftentimes accomplish the financial ruin of a responsible business man. Those who otherwis might make lawful and just arrangements to relieve themselves from difficulties produced by the present stringency in money, are prevented by their constant exposure to attack and disappointment by proceedings against them in bankruptcy, and, beside, the law is made use of in many cases by obdurate creditors to frighten or force debtors into a compli ance with their wishes and into acts of injustice to other creditors and to themselves. I recommend that so much of said act as provides for involuntary bankruptcy on account of the suspension of payment be repealed.

Your careful attention is invited to the subject of claims against the Government, and to the facilities afforded by existing laws for their prose cution. Each of the Departments of State, Treasury, and War have demands for many millions of dollars upon their files, and they are rapidly accumulating. To these may be added those now pending before Congress, the Court of Claims, and the southern claims commission, making in the aggregate an immense sum. Most of these grow out of the rebellion, and are intended to indemnify persons on both sides for their losses during the war; and not a few of them are fabricated and supported by false testimony. Projects are on foot, it is believed, to

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induce Congress to provide for new classes of claims, and to revive old ones through the repeal or modification of the statute of limitations, by which they are now barred. I presume these schemes, if proposed, will be received with little favor by Congress, and I recommend that persons having claims against the United States cognizable by any tribunal or department thereof, be required to present them at an early day, and that legislation be directed as far as practicable to the defeat of unfounded and unjust demands upon the Government; and I would suggest as a means of preventing fraud, that witnesses be called upon to appear in person to testify before those tribunals having said claims before them for adjudication. Probably the largest saving to the national Treasury can be secured by timely legislation on these subjects, of any of the economic measures that will be proposed.

You will be advised of the operations of the Department of Justice by the report of the Attorney-General, and I invite your attention to the amendments of existing laws suggested by him, with the view of reducing the expenses of that Department.

DEPARTMENT OF THE INTERIOR.

The policy inaugurated toward the Indians at the beginning of the last administration has been steadily pursued, and, I believe, with beneficial results. It will be continued with only such modifications as time and experience may demonstrate as necessary.

With the encroachment of civilization upon the Indian reservations and hunting-grounds, disturbances have taken place between the Indians and whites during the past year, and probably will continue to do so until each race appreciates that the other has rights which must be respected.

The policy has been to collect the Indians, as rapidly as possible, on reservations—and as far as practicable within what is known as the Indian Territory—and to teach them the arts of civilization and self-support. Where found off their reservations, and endangering the peace and safety of the whites, they have been punished, and will continue to be for like offenses.

The Indian Territory south of Kansas and west of Arkansas is sufficient in area and agricultural resources to support all the Indians east of the Rocky Mountains. In time, no doubt, all of them, except a few who may select to make their homes among white people, will be collected there. As a preparatory step for this consummation, I am now satisfied that a territorial form of government should be given them, which will secure the treaty rights of the original settlers, and protect their homesteads from alienation for a period of twenty years.

The operations of the Patent-Office are growing to such a magnitude, and the accumulation of material is becoming so great, that the necessity for more room is becoming more obvious day by day. I respect-

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fully invite your attention to the reports of the Secretary of the Interior and Commissioner of Patents on this subject.

The business of the General Land-Office exhibits a material increase in all its branches during the last fiscal year. During that time there were disposed of, out of the public lands, 13,030,606 acres, being an amount greater by 1,165,631 acres than was disposed of during the preceding year. Of the amount disposed of 1,626,266 acres were sold for cash; 214,940 acres were located with military land-warrants; 3,793,612 acres were taken for homesteads; 653,446 acres were located with agricultural-college scrip; 6,083,536 acres were certified by railroads; 76,576 acres were granted to wagon-roads; 238,548 acres were approved to States as swamp-lands; 138,681 acres were certified for agricultural colleges, common schools, universities, and seminaries; 190,775 acres were approved to States for internal improvements; and 14,222 acres were located with Indian scrip. The cash receipts during the same time were $3,408,515.50, being $190,415.50 in excess of the receipts of the previous year. During the year 30,488,132 acres of public land were surveyed, an increase over the amount surveyed the previous year of 1,037,193 acres, and, added to the area previously surveyed, aggregates 616,554,895 acres which have been surveyed, leaving 1,218,443,505 acres of the public land still unsurveyed.

The increased and steadily increasing facilities for reaching our unoccupied public domain, and for the transportation of surplus products, enlarges the available field for desirable homestead locations, thus stimulating settlement and extending year by year in a gradually increasing ratio the area of occupation and cultivation.

The expressed desire of the representatives of a large colony of citizens of Russia to emigrate to this country, as is understood, with the consent of their government, if certain concessions can be made to enable them to settle in a compact colony, is of great interest, as going to show the light in which our institutions are regarded by an industrious, intelligent, and wealthy people, desirous of enjoying civil and religious liberty; and the acquisition of so large an immigration of citizens of a superior class would, without doubt, be of substantial benefit to the country. I invite attention to the suggestion of the Secretary of the Interior in this behalf.

There was paid during the last fiscal year for pensions, including the expense of disbursement, $29,185,289.62, being an amount less by $984,050.98 than was expended for the same purpose the preceding year. Although this statement of expenditures would indicate a material reduction in amount compared with the preceding year, it is believed that the changes in the pension-laws at the last session of Congress will absorb that amount the current year. At the close of the last fiscal year there were on the pension-rolls 99,804 invalid military pensioners and 112,088 widows, orphans, and dependent relatives of deceased soldiers, making a total of that class of 211,892; 18,266 survivors of the war of 1812,

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and 5,053 widows of soldiers of that war pensioned under the act of Congress of February 14, 1871, making a total of that class of 23,319; 1,430 invalid Navy pensioners, and 1,770 widows, orphans, and dependent relatives of deceased officers, sailors, and marines of the Navy, making a total of Navy pensioners of 3,200, and a grand total of pensioners of all classes of 238,411, showing a net increase during the last fiscal year of 6,162. During the last year the names of 16,405 pensioners were added to the rolls, and 10,223 names were dropped therefrom for various causes.

The system adopted for the detection of frauds against the Government in the matter of pensions has been productive of satisfactory results, but legislation is needed to provide, if possible, against the perpetration of such frauds in future.

The evidently increasing interest in the cause of education is a most encouraging feature in the general progress and prosperity of the country, and the Bureau of Education is earnest in its efforts to give proper direction to the new appliances and increased facilities which are being offered to aid the educators of the country in their great work.

The ninth census has been completed, the report thereof published and distributed, and the working force of the bureau disbanded. The Secretary of the Interior renews his recommendation for a census to be taken in 1875, to which subject the attention of Congress is invited. The original suggestion in that behalf has met with the general approval of the country, and even if it be not deemed advisable at present to provide for a regular quinquennial census, a census taken in 1875, the report of which could be completed and published before the one hundredth anniversary of our national independence, would be especially interesting and valuable, as showing the progress of the country during the first century of our national existence. It is believed, however, that a regular census every five years would be of substantial benefit to the country, inasmuch as our growth hitherto has been so rapid that the results of the decennial census are necessarily unreliable as a basis of estimates for the latter years of a decennial period.

DISTRICT OF COLUMBIA.

Under the very efficient management of the governor and the board of public works of this District, the city of Washington is rapidly assuming the appearance of a capital of which the nation may well be proud. From being a most unsightly place three years ago, disagreeable to pass through in summer in consequence of the dust arising from unpaved streets, and almost impassable in the winter from the mud, it is now one of the most sightly cities in the country, and can boast of being the best paved.

The work has been done systematically, the plans, grades, location of sewers, water and gas mains being determined upon before the work was commenced, thus securing permanency when completed. I ques-

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tion whether so much has ever been accomplished before in any American city for the same expenditures. The Government having large reservations in the city, and the nation at large having an interest in their capital, I recommend a liberal policy toward the District of Columbia, and that the Government should bear its just share of the expense of these improvements. Every citizen visiting the capital feels a pride in its growing beauty, and that he too is part owner of the investments made here.

I would suggest to Congress the propriety of promoting the establishment in this District of an institution of learning, or university of the highest class, by the donation of lands. There is no place better suited for such an institution than the national capital. There is no other place in which every citizen is so directly interested.

CIVIL-SERVICE REFORM.

In three successive messages to Congress I have called attention to the subject of "civil-service reform."

Action has been taken so far as to authorize the appointment of a board to devise rules governing methods of making appointments and promotions, but there never has been any action making these rules, or any rules, binding, or even entitled to observance where persons desire the appointment of a friend, or the removal of an official who may be disagreeable to them.

To have any rules effective they must have the acquiescence of Congress as well as of the Executive. I commend, therefere, the subject to your attention, and suggest that a special committee of Congress might confer with the civil-service board during the present session for the purpose of devising such rules as can be maintained, and which will secure the services of honest and capable officials, and which will also protect them in a degree of independence while in office.

Proper rules will protect Congress, as well as the Executive, from much needless persecution, and will prove of great value to the public at large.

I would recommend for your favorable consideration the passage of an enabling act for the admittance of Colorado as a State in the Union. It possesses all the elements of a prosperous State, agricultural and mineral, and, I believe, has a population now to justify such admission. In connection with this I would also recommend the encouragement of a canal for purposes of irrigation from the eastern slope of the Rocky Mountains to the Missouri River. As a rule, I am opposed to further donations of public lands for internal improvements, owned and controlled by private corporations, but in this instance I would make an exception. Between the Missouri River and the Rocky Mountains there is an arid belt of public land from three hundred to five hundred miles in width, perfectly valueless for the occupation of man, for the want of sufficient rain to secure the growth of any product. An irrigating-canal

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would make productive a belt, as wide as the supply of water could be made to spread over, across this entire country, and would secure a cordon of settlements, connecting the present population of the mountain and mining regions with that of the older States. All the land reclaimed would be clear gain. If alternate sections are retained by the Government, I would suggest that the retained sections be thrown open to entry under the homestead laws, or sold to actual settlers for a very low price.

I renew my previous recommendation to Congress for general amnesty. The number engaged in the late rebellion yet laboring under disabilities is very small, but enough to keep up a constant irritation. No possible danger can accrue to the Government by restoring them to eligibility to hold office.

I suggest for your consideration the enactment of a law to better secure the civil rights which freedom should secure, but has not effectually secured, to the enfranchised slave.

U. S. GRANT.

EXECUTIVE MANSION, *December* 1, 1873.

Protocol of the conference held at the Department of State, at Washington, on the 29th of November, 1873, between Hamilton Fish, Secretary of State, and Rear-Admiral Don José Polo de Bernabé, envoy extraordinary and minister plenipotentiary of Spain.

The undersigned having met for the purpose of entering into a definitive agreement respecting the case of the steamer Virginius, which, while under the flag of the United States, was, on the 31st day of October last, captured on the high seas by the Spanish man-of-war Tornado, have reached the following conclusions:

Spain, on her part, stipulates to restore forthwith the vessel referred to, and the survivors of her passengers and crew, and on the 25th day of December next to salute the flag of the United States. If, however, before that date Spain should prove to the satisfaction of the Government of the United States that the Virginius was not entitled to carry the flag of the United States, and was carrying it, at the time of her capture, without right and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable; but the United States will expect, in such case, a disclaimer of the intent of indignity to its flag in the act which was committed.

Furthermore, if on or before the 25th of December, 1873, it shall be made to appear to the satisfaction of the United States that the Virginius did not rightfully carry the American flag and was not entitled to American papers, the United States will institute inquiry, and adopt legal proceedings against the vessel, if it be found that she has violated any law of the United States, and against any of the persons who may

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appear to have been guilty of illegal acts in connection therewith; i being understood that Spain will proceed, according to the second prop osition made to General Sickles, and communicated in his telegra read to Admiral Polo on the 27th instant, to investigate the conduct those of her authorities who have infringed Spanish laws or treaty obl gations, and will arraign them before competent courts and inflict pu ishment on those who may have offended.

Other reciprocal reclamations to be the subject of consideration an arrangement between the two governments; and in case of no agree ment, to be the subject of arbitration if the constitutional assent of th Senate of the United States be given thereto.

It is further stipulated that the time, manner, and place for the sur render of the Virginius, and the survivors of those who were on board of her at the time of her capture, and also the time, manner, and place for the salute to the flag of the United States, if there should be oc casion for such salute, shall be subject to arrangement between the undersigned, within the next two days.

HAMILTON FISH.
JOSÉ POLO DE BERNABÉ.

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No. 182½.*

PROTOCOL.

Whereas it was provided by the first article of the treaty between the United States of America and Great Britain, signed at Washington on the 15th of June, 1846, as follows:

"ARTICLE I.

"From the point on the 49th parallel of north latitude where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean: *Provided, however*, That the navigation of the whole of the said channel and straits south of the 49th parallel of north latitude remain free and open to both parties."

And whereas it was provided by the XXXIVth Article of the treaty between the United States of America and Great Britain, signed at Washington on the 8th of May, 1871, as follows:

"ARTICLE XXXIV.

"Whereas it was stipulated by Article I of the treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point on the 49th parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean; and whereas the commissioners appointed by the two high contracting parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the government of Her Britannic Majesty claims that such boundary-line should, under the terms of the treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of the United States and of the Government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned article of the said treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the treaty of June 15, 1846."

And whereas His Majesty the Emperor of Germany has, by his award

* This should have been inserted on page 418. It was omitted by mistake in the manuscript transmitted to the printer.

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dated the 21st of October, 1872, decided that "Mit der richtigen Auslegung des zwischen den Regierungen Ihrer Britischen Majestät und der Vereinigten Staaten von Amerika geschlossenen Vertrages de dato Washington den 15 Juni, 1846, steht der Anspruch der Regierung der Vereinigten Staaten am meisten im Einklange, dass die Grenzlinie zwischen den Gebieten Ihrer Britischen Majestät und den Vereinigten Staaten durch den Haro-Kanal gezogen werde."

The undersigned, Hamilton Fish, Secretary of State of the United States, and the Right Honourable Sir Edward Thornton, one of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and Rear-Admiral James Charles Prevost, Commissioner of Her Britannic Majesty in respect of the boundary aforesaid, duly authorized by their respective governments to trace out and mark, on charts prepared for that purpose, the line of boundary in conformity with the award of His Majesty the Emperor of Germany, and to complete the determination of so much of the boundary-line between the territory of the United States and the possessions of Great Britain as was left uncompleted by the commissioners heretofore appointed to carry into effect the first article of the treaty of 15th June, 1846, have met together at Washington, and have traced out and marked the said boundary-line on four charts, severally entitled, "North America, West Coast, Strait of Juan de Fuca, and the channels between the continent and Vancouver Id, showing the boundary-line between British and American possesssions, from the admiralty surveys by Captains H. Kellett, R. N., 1847, and G. H. Richards, R. N., 1858–1862;" and having on examination agreed that the lines so traced out and marked on the respective charts are identical, they have severally signed the said charts on behalf of their respective governments, two copies thereof to be retained by the Government of the United States, and two copies thereof to be retained by the Government of Her Britannic Majesty, to serve with the "definition of the boundary-line," attached hereto, showing the general bearings of the line of boundary as laid down on the charts, as a perpetual record of agreement between the two governments in the matter of the line of boundary between their respective dominions under the first article of the treaty concluded at Washington on the 15th of June, 1846.

In witness whereof the undersigned have signed this protocol, and have hereunto affixed their seals.

Done in duplicate at Washington this tenth day of March, in the year 1873.

HAMILTON FISH. [SEAL.]
EDWD. THORNTON. [SEAL.]
JAMES C. PREVOST. [SEAL.]

DEFINITION OF THE BOUNDARY-LINE.

The chart upon which the boundary-line between the British and the United States possessions is laid down is entitled "North America, West Coast, Strait of Juan de Fuca, and the channels between the continent and Vancouver Id, showing the boundary-line between British and American possessions, from the admiralty surveys by Captains H. Kellett, R. N., 1847, and G. H. Richards, R. N., 1858–1862."

The boundary-line thus laid down on the chart is a black line shaded

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red on the side of the British possessions, and blue on the side of the possessions of the United States.

The boundary-line thus defined commences at the point on the 49th parallel of north latitude on the west side of Point Roberts, which is marked by a stone monument, and the line is continued along the said parallel to the middle of the channel which separates the continent from Vancouver Island, that is to say, to a point in longitude 123° 19′ 15″ W., as shown in the said chart. It then proceeds in a direction about S. 50° E. (true) for about fifteen geographical miles, when it curves to the southward, passing equidistant between the west point of Patos Island and the east point of Saturna Island, until the point midway on a line drawn between Turnpoint, on Stewart Island, and Fairfax Point, on Moresby Island, bears S. 68° W., (true,) distant ten miles; then on a course south 68° W., (true,) ten miles to the said point midway between Turnpoint, on Stewart Island, and Fairfax Point, on Moresby Island; thence on a course about south 12° 30′ east (true) for about eight and three-quarter miles to a point due east, one mile from the northernmost Kelp Reef, which reef on the said chart is laid down as in latitude 48° 33′ north, and in longitude 123° 15′ west; then its direction continues about S. 20° 15′ east, (true,) six and one-eighth miles to a point midway between Sea Bird Point, on Discovery Island, and Pile Point, on San Juan Island; thence in a straight line S. 45° E., (true,) until it touches the north end of the middle bank in between 13 and 18 fathoms of water; from this point the line takes a general S. 28° 30′ W. direction (true) for about ten miles, when it reaches the centre of the fairway of the Strait of Juan de Fuca, which, by the chart, is in the latitude of 48° 17′ north and longitude 123° 14′ 40″ W.

Thence the line runs in a direction S. 73° W., (true,) for twelve miles, to a point on a straight line drawn from the light-house on Race Island to Angelos Point, midway between the same.

Thence the line runs through the centre of the Strait of Juan de Fuca, *first*, in a direction N. 80° 30′ W., about 5¾ miles to a point equidistant on a straight line between Beechey Head, on Vancouver Island, and Tongue Point, on the shore of Washington Territory; *second*, in a direction N. 76° W., about 13½ miles to a point equidistant in a straight line between Sherringham Point, on Vancouver Island, and Pillar Point, on the shore of Washington Territory; *third*, in a direction N. 68° W., about 30¾ miles to the Pacific Ocean, at a point equidistant between Bonilla Point, on Vancouver Island, and Tatooch Island light-house on the American shore, the line between the points being nearly due north and south, (true.)

The courses and distances as given in the foregoing description are not assumed to be perfectly accurate, but are as nearly so as is supposed to be necessary to a practical definition of the line laid down on the chart and intended to be the boundary-line.

HAMILTON FISH.
EDWD. THORNTON.
JAMES C. PREVOST.

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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

The United States,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 1, 1873.

PRECEDED BY A

LIST OF PAPERS, AND A LIST OF PERSONS WHOSE CORRESPONDENCE IS CONTAINED IN THIS VOLUME, AND FOLLOWED BY AN INDEX OF PERSONS AND SUBJECTS.

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* Handed to Mr. Fish by the Marquis de Noailles June 19.

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237	.....do	Jan. 22	Emigration of destitute Italians to America; action of the Italian government.
238	.....do	June 25	Defeat of the ministry.....
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242	Mr. De Long to Mr. Fish....	Sept. 3	The case of the Maria Luz .....
243	.....do	Sept. 27	Case of the Maria Luz. Mr. De Long's course as acting minister of Peru; inclosures.
244	.....do	Nov. 6	Annexation of Lew-Chew to Japan; expedition against Formosa; consultations with General Le Gendre.
245	.....do	Nov. 21	Case of the Maria Luz; action of Mr. De Long respecting the same.
246	Mr. Fish to Mr. De Long....	Dec. 5	Regrets that he has interfered in the case of the Maria Luz.
247	.....do	Dec. 18	Approves of his action as to Lew-Chew; awaits further advices as to Formosa.
248	Mr. De Long to Mr. Fish....	Dec. 21	The Japanese adopt the European calendar.....
249	.....do	Dec. 24	Conveyances or pledges of lands to foreigners by Japanese forbidden; Japanese do not guarantee certainty or expedition in dispatch of telegrams.
250	Mr. Fish to Mr. De Long....	Dec. 28	His proceedings as to the Maria Luz approved ....
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396	Mr. Fish to General Sickles..	Mar. 12	Inclosing certified copy of the joint resolution of Congress.
397	General Sickles to Mr. Fish..	Mar. 14	He communicates the action of Congress to the Spanish government.
398	Mr. Fish to General Sickles..	Mar. 21	Instructions respecting the imposition of fines in Cuba.
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430	Mr. Castelar to Admiral Polo de Bernabe.	Feb. 25	Left with to Mr. Fish by Admiral Polo March 20, 1873.] The causes which have induced the change of government.
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441	.....do	Feb. 26	Same subject .....
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487	.....do	Feb. 25	Political relations between Tripoli and the Ottoman Porte. Reasons for regarding the treaties between the United States and Tripoli as still in force.
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494	do	June 27	Suspension of diplomatic relations between Venezuela and Colombia. Action of Congress on the claims of the United States.	1174
495	do	July 1	Correspondence with the minister of foreign affairs respecting the authenticity of the message of the President of Venezuela to Congress.	1174

XXXIV.—PAPERS RELATING TO EXPATRIATION, NATURALIZATION, AND CHANGE OF ALLEGIANCE.

[For a complete list of these papers see post pages 1180 to 1183.]

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LIST OF PERSONS WHOSE CORRESPONDENCE WITH OR FROM THE DEPARTMENT OF STATE IS CONTAINED IN THIS VOLUME.

DEPARTMENT OF STATE.

Hamilton Fish, Secretary of State.
Charles Hale, Assistant Secretary of State. (Resignation took effect January 24, 1873.)
J. C. Bancroft Davis, Assistant Secretary of State. (Appointed January 24, 1873.)
William Hunter, Second Assistant Secretary of State.

ARGENTINE REPUBLIC.

Dexter E. Clapp, consul at Buenos Ayres, and chargé d'affaires *ad interim*.
Julius White, minister resident of the United States at Buenos Ayres.

AUSTRO-HUNGARIAN EMPIRE.

John Jay, envoy extraordinary and minister plenipotentiary of the United States at Vienna.
John F. Delaplaine, secretary of legation and chargé d'affaires *ad interim*.
Baron Lederer, envoy extraordinary and minister plenipotentiary of the Emperor of Austria-Hungary at Washington.

BELGIUM.

J. Russell Jones, minister resident of the United States at Brussels.
Maurice Delfosse, envoy extraordinary and minister plenipotentiary of the King of the Belgians at Washington.

BRAZIL.

James R. Partridge, envoy extraordinary and minister plenipotentiary of the United States at Rio de Janeiro.
R. C. Shannon, secretary of the legation of the United States at Rio de Janeiro, and chargé d'affaires *ad interim*.

CHILI.

Joseph P. Root, envoy extraordinary and minister plenipotentiary of the United States at Santiago.

CHINA.

Frederick F. Low, envoy extraordinary and minister plenipotentiary of the United States at Peking.
David H. Bailey, consul of the United States at Hong-Kong.

COSTA RICA.

Jacob B. Blair, minister resident of the United States at San José.

DENMARK.

Michael J. Cramer, minister resident of the United States at Copenhagen.

DOMINICAN REPUBLIC.

D. Vickers, commercial agent of the United States at Samana.

ECUADOR.

E. Rumsey Wing, minister resident of the United States at Quito.

FRANCE.

E. B. Washburne, envoy extraordinary and minister plenipotentiary of the United States at Paris.
Wickham Hoffman, secretary of legation of the United States at Paris, and chargé d'affaires *ad interim*.
Marquis de Noailles, envoy extraordinary and minister plenipotentiary of the French Republic at Washington.

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GERMANY.

George Bancroft, envoy extraordinary and minister plenipotentiary of the United States at Berlin.
Alexander Bliss, secretary of legation of the United States at Berlin, and chargé d'affaires *ad interim*.
Kurd von Schlözer, envoy and minister plenipotentiary of the Emperor of Germany at Washington.

GREAT BRITAIN.

Robert C. Schenck, envoy extraordinary and minister plenipotentiary of the United States at London.
Benjamin Moran, secretary of legation of the United States at London, and chargé d'affaires *ad interim*.
Sir Edward Thornton, envoy extraordinary and minister plenipotentiary of Her Britannic Majesty at Washington.
Archibald Campbell, United States commissioner on the commission for determining and marking the northern boundary of the United States.

GREECE.

John M. Francis, minister resident of the United States at Athens.

GUATEMALA.

Silas A. Hudson, minister resident of the United States at Guatemala.

HAYTI.

Ebenezer D. Bassett, minister resident of the United States and consul general at Port au Prince.

HAWAIIAN ISLANDS.

Henry A. Pierce, minister resident of the United States at Honolulu.

ITALY.

George P. Marsh, envoy extraordinary and minister plenipotentiary of the United States at Rome.

JAPAN.

C. E. De Long, envoy extraordinary and minister plenipotentiary of the United States at Yedo.

MEXICO.

Thomas Nelson, envoy extraordinary and minister plenipotentiary of the United States at Mexico. (Resigned June 1, 1873.)
John W. Foster, envoy extraordinary and minister plenipotentiary of the United States at Mexico. (Entered on the duties June 1, 1873.)
Porter C. Bliss, secretary of legation and chargé d'affaires *ad interim*.
W. Schuchardt, consul of the United States at Piedras Negras.

MOROCCO.

F. A. Mathews, consul of the United States at Tangier.

NETHERLANDS.

Charles T. Gorham, minister resident of the United States at the Hague.

NICARAGUA.

Charles N. Riotte, minister resident of the United States at Leon.

PERU.

Francis Thomas, envoy extraordinary and minister plenipotentiary of the United States at Lima.

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RUSSIA.

James L. Orr, envoy extraordinary and minister plenipotentiary of the United States at St. Petersburg. (Appointed December 12, 1872; died May 6, 1873.)

SALVADOR.

Thomas Biddle, minister resident of the United States at San Salvador.

SPAIN.

Daniel E. Sickles, envoy extraordinary and minister plenipotentiary of the United States at Madrid.
A. N. Duffie, consul of the United States at Cadiz.
A. M. Hancock, consul of the United States at Malaga.

SWEDEN AND NORWAY.

C. C. Andrews, minister resident of the United States at Stockholm.

SWITZERLAND.

Horace Rublee, minister resident of the United States at Berne.
Charles H. Upton, consul of the United States at Geneva, and chargé d'affaires *ad interim*.

TURKISH EMPIRE.

George H. Boker, minister resident of the United States at Constantinople.
R. Beardsley, agent and consul general of the United States at Alexandria.
G. H. Heap, consul of the United States at Tunis.
Michel Vidal, consul of the United States at Tripoli.

VENEZUELA.

William A. Pile, minister resident of the United States at Caracas.

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I.—PROCLAMATIONS.

No. 1.

By the President of the United States of America.

A PROCLAMATION.

Whereas by the thirty-third article of a treaty concluded at Washington on the 8th day of May, 1871, between the United States and Her Britannic Majesty, it was provided that "Articles XVIII to XXV inclusive, and Article XXX of this treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the parliament of Canada, and by the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other;"

And whereas by the first section of an act entitled "An act to carry into effect the provisions of the treaty between the United States and Great Britain signed in the city of Washington the eighth day of May, eighteen hundred and seventy-one, relating to the fisheries," it is provided "That when everthe President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the parliament of Canada, and the legislature of Prince Edward's Island, have passed laws on their part to give full effect to the provisions of the treaty between the United States and Great Britain signed at the city of Washington on the eighth day of May, eighteen hundred and seventy-one, as contained in articles eighteenth to twenty-fifth, inclusive, and article thirtieth of said treaty, he is hereby authorized to issue his proclamation declaring that he has such evidence;"

And whereas the Secretary of State of the United States and Her Britannic Majesty's envoy extraordinary and minister plenipotentiary at Washington have recorded in a protocol a conference held by them at the Department of State in Washington, on the 7th day of June, 1873, in the following language:

Protocol of a conference held at Washington on the seventh day of June, one thousand eight hundred and seventy-three.

Whereas it is provided by article XXXIII of the treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, signed at Washington on the 8th of May, 1871, as follows:

"ARTICLE XXXIII.

"The foregoing articles, XVIII to XXV, inclusive, and Article XXX of this treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the parliament of Canada, and by the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years, or at any time afterward;"

And whereas, in accordance with the stipulations of the above-recited article, an act was passed by the Imperial Parliament of Great Britain in the thirty-fifth and thirty-sixth years of the reign of Queen Victoria, intituled "An act to carry into effect a treaty between Her Majesty and the United States of America;"

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And whereas an act was passed by the Senate and House of Commons of Canada in the fifth session of the first parliament, held in the thirty-fifth year of Her Majesty's reign, and assented to in Her Majesty's name, by the governor-general, on the fourteenth day of June, 1872, intituled "An act relating to the treaty of Washington, 1871;"

And whereas an act was passed by the legislature of Prince Edward's Island, and assented to by the lieutenant governor of that colony on the 29th day of June, 1872, intituled "An act relating to the treaty of Washington, 1871;"

And whereas an act was passed by the Senate and House of Representatives of the United States of America in Congress assembled, and approved on the first day of March, 1873, by the President of the United States, intituled "An act to carry into effect the provisions of the treaty between the United States and Great Britain, signed in the city of Washington the eighth day of May, eighteen hundred and seventy-one, relating to fisheries;"

The undersigned, Hamilton Fish, Secretary of State of the United States, and the Right Honorable Sir Edward Thornton, one of Her Majesty's Most Honorable Privy Council, Knight Commander of the Most Honorable Order of the Bath, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, duly authorized for this purpose by their respective governments, having met together at Washington, and having found that the laws required to carry the Articles XVIII to XXV, inclusive, and Article XXX of the treaty aforesaid, into operation, have been passed by the Imperial Parliament of Great Britain, by the parliament of Canada, and by the legislature of Prince Edward's Island, on the one part, and by the Congress of the United States on the other, hereby declare that Articles XVIII to XXV, inclusive, and Article XXX of the treaty between Her Britannic Majesty and the United States of America, of the 8th of May, 1871, will take effect on the first day of July next.

In witness whereof the undersigned have signed this protocol, and have hereunto affixed their seals.

Done in duplicate at Washington this seventh day of June, 1873.

[SEAL.] (Signed) HAMILTON FISH.
[SEAL.] (Signed) EDW'D THORNTON."

Now, therefore, I, Ulysses S. Grant, President of the United States of America, in pursuance of the premises, do hereby declare that I have received satisfactory evidence that the Imperial Parliament of Great Britain, the parliament of Canada, and the legislature of Prince Edward's Island, have passed laws on their part to give full effect to the provisions of the said treaty as contained in articles eighteenth to twenty-fifth, inclusive, and article thirtieth of said treaty.

In testimony whereof I have hereunto set my hand and caused the e d States to be affixed.

Done at the city of Washington this first day of July, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States of America the ninety-seventh.

[SEAL.] U. S. GRANT.

By the President:
HAMILTON FISH, *Secretary of State.*

No. 2.

By the President of the United States of America.

A PROCLAMATION.

Whereas by the act of Congress approved March third, eighteen hundred and seventy-one, providing for a national celebration of the one hundredth anniversary of the Independence of the United States, by the holding of an international exhibition of arts, manufactures, and products of the soil and mine, in the city of Philadelphia, in the year

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eighteen hundred and seventy-six, it is provided as follows: "That whenever the President shall be informed by the governor of the State of Pennsylvania that provision has been made for the erection of suitable buildings for the purpose, and for the exclusive control by the commission herein provided for of the proposed exhibition, the President shall, through the Department of State, make proclamation of the same, setting forth the time at which the exhibition will open, and the place at which it will be held; and he shall communicate to the diplomatic representatives of all nations copies of the same, together with such regulations as may be adopted by the commissioners, for publication in their respective countries;"

And whereas his excellency the governor of the State of Pennsylvania did, on the twenty-fourth day of June, eighteen hundred and seventy-three, inform me that provision has been made for the erection of said buildings and for the exclusive control by the commission provided for in the said act of the proposed exhibition;

And whereas the President of the United States Centennial Commission has officially informed me of the dates fixed for the opening and closing of the said exhibition, and the place at which it is to be held:

Now, therefore, be it known that I, Ulysses S. Grant, President of the United States, in conformity with the provisions of the act of Congress aforesaid, do hereby declare and proclaim that there will be held, at the city of Philadelphia, in the State of Pennsylvania, an international exhibition of arts, manufactures, and products of the soil and mine, to be opened on the nineteenth day of April, anno Domini eighteen hundred and seventy-six, and to be closed on the nineteenth day of October, in the same year.

And in the interest of peace, civilization, and domestic and international friendship and intercourse, I commend the celebration and exhibition to the people of the United States; and in behalf of this Government and people, I cordially commend them to all nations who may be pleased to take part therein.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this third day of July, one thousand eight hundred and seventy-three, and of the Independence of the United States the ninety-seventh.

[SEAL.] U. S. GRANT.

By the President:
HAMILTON FISH,
Secretary of State.

No. 3.

By the President of the United States of America.

A PROCLAMATION.

Whereas satisfactory evidence was given me on the 13th day of September current, by the Marquis de Noailles, envoy extraordinary and minister plenipotentiary from the French Republic, that on and after the 1st day of October next merchandise imported into France in vessels of the United States, from whatever country, will be subject to no

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other duties or imposts than those which shall be collected upon merchandise imported into France from countries of its origin or from any other country in French vessels:

Now, therefore, I, Ulysses S. Grant, President of the United States of America, by virtue of the authority vested in me by law, do hereby declare and proclaim that on and after the 1st day of October next, so long as merchandise imported into France in vessels of the United States, whether from the countries of its origin, or from other countries, shall be admitted into the ports of France on the terms aforesaid, the discriminating duties heretofore levied upon merchandise imported into the United States in French vessels, either from the countries of its origin, or from any other country, shall be, and are, discontinued and abolished.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-second day of September, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States of America the ninety-eighth.

[SEAL.] U. S. GRANT.

By the President:
J. C. BANCROFT DAVIS,
Acting Secretary of State.

II.—CIRCULARS.

No. 4.

DEPARTMENT OF STATE,
Washington, February 11, 1873.

To the Diplomatic and Consular Officers of the United States:

Persons in foreign countries desiring to submit inventions of any kind to the consideration or examination of the Government of the United States must address, in writing, the "Secretary of the Interior, (Patent-Office,) Washington, United States of America."

They must give a description of the invention, and must state whether or not they expect or intend to ask any compensation whatsoever.

No expense incurred in connection with the invention, or its presentation, will be considered as giving any claim whatever to compensation, or to indemnification.

The Government of the United States will assume no responsibility whatever, whether for loss of time, for services, for expenses of any kind, for loss or injury to any models, drawings, or other things, or for any cause whatsoever in connection with the invention or its presentation, unless the same may have been specially and distinctly authorized in writing, under the signature of the Secretary of the Interior, and in this case the responsibility of the Government will be limited to the amount named in his letter authorizing the same.

No claim for indemnification or for compensation will be entertained, unless accompanied by such letter of the Secretary of the Interior as is contemplated in the preceding paragraph; and no indemnification or

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compensation will be allowed to any inventor, or other person presenting an invention, unless there be an appropriation by Congress authorizing such payment.

No indemnification or compensation will be made in any case, unless the invention be adopted, or some advantage inures therefrom to the public service of the United States; and the Government of the United States, through its appropriate department, will, in all cases, be the sole judge on these points.

HAMILTON FISH.

No. 5.

DEPARTMENT OF STATE,
Washington, March 29, 1873.

To the Diplomatic and Consular Officers of the United States:

A copy of a law of Congress approved by the President of the United States March 3, 1873, is herewith inclosed for your information. You will observe that it is stated that, in computations, the value of a pound sterling shall be deemed equal to four dollars and eighty-six cents and six and one-half mills; and this valuation shall be the par of exchange between Great Britain and the United States. Heretofore the value of a pound sterling has been deemed equal to $4.84; and this value has formed the basis upon which your drafts and accounts have been adjusted. On and after the 1st day of April you are required to regard the pound sterling as equal in value to four dollars eighty-six cents six mills and one-half, and to employ this valuation in the computation of your accounts.

I am, gentlemen, your obedient servant,

HAMILTON FISH.

[GENERAL NATURE—No. 96.]

AN ACT to establish the custom-house value of the sovereign or pound sterling of Great Britain, and to fix the par of exchange.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the value of foreign coin, as expressed in the money of account of the United States, shall be that of the pure metal of such coin of standard value; and the values of the standard coins in circulation of the various nations of the world shall be estimated annually by the Director of the Mint, and be proclaimed on the first day of January by the Secretary of the Treasury.

SEC. 2. That in all payments by or to the Treasury, whether made here or in foreign countries, where it becomes necessary to compute the value of the sovereign or pound sterling, it shall be deemed equal to four dollars eighty-six cents and six and one-half mills, and the same rule shall be applied in appraising merchandise imported where the value is, by the invoice, in sovereigns or pounds sterling, and in the construction of contracts payable in sovereigns or pounds sterling; and this valuation shall be the par of exchange between Great Britain and the United States; and all contracts made after the first day of January, eighteen hundred and seventy-four, based on an assumed par of exchange with Great Britain of fifty-four pence to the dollar, or four dollars forty-four and four-ninths cents to the sovereign or pound sterling, shall be null and void.

SEC. 3. That all acts and parts of acts inconsistent with these provisions be, and the same are hereby, repealed.

Approved March 3, 1873.

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No. 6.

DEPARTMENT OF STATE,
Washington, May 3, 1873.

To the Diplomatic and Consular Officers of the United States:

GENTLEMEN: Occasions having arisen in which it was found desirable for the diplomatic and consular officers of the United States to possess authentic information concerning the laws in force in the several States and Territories of the United States in relation to births and marriages, the Department has collected from the laws of the several States and Territories the following information on the subject:

STATES.

ALABAMA.—There must be a license to marry from the judge of probate; certificate of the marriage returned to him and recorded in his office. No registry of births.

ARKANSAS.—No license; but the person solemnizing must return a certificate to the clerk of the court for the county, who shall record it. No registry of births.

CALIFORNIA.—No license required; but persons solemnizing must keep a record and transmit it to the county recorder, who shall record it. No registry of births.

CONNECTICUT.—License must be had from town clerk; certificate returned to town registrar, and by him recorded. No registry of births.

DELAWARE.—A marriage-license must be had, or bans published in church. Persons solemnizing must keep a record, and once a year transmit copy to recorder of county, who records it. No registry of births.

FLORIDA.—License for marriage to be issued by clerk of county; certificate of, returned to him, and he records it. No registry of births.

GEORGIA.—License for marriage issued by ordinary of the county; certificate returned to him, and he records it. No registry of births.

ILLINOIS.—Bans must be published two weeks in church, or license obtained from county clerk; in either case certificate to be returned to him by party solemnizing, and by the clerk recorded. No registry of births.

INDIANA.—No license required; but certificate of, must be returned to county clerk, and by him recorded. No registry of births.

IOWA.—License must be had from the county clerk, and party solemnizing must return certificate to clerk, who records it. No registry of births.

KANSAS.—No license is required; but certificate to be returned to the county clerk by the person solemnizing, and to be recorded by the clerk. No registry of births.

KENTUCKY.—There must be a license, or publication notice, filed in clerk's office; certificate to be returned to the registrar of births, deaths, and marriages, who is to record it. While there is provided in this State a mode of registering births, as there is no provision requiring parents to report birth, the law is, to a great extent, a dead letter.

LOUISIANA.—The parish judge issues a license, and the certificate is returned to that officer, and he records it. No registry of births.

MAINE.—The town clerk issues license, or publication of bans in church; the party solemnizing the marriage keeps record, and makes

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return to the town clerk within a year; clerk records it. No registry of births.

MARYLAND.—The clerk of orphans' court issues license; the certificate is returned to him, and he records. No registry of births.

MASSACHUSETTS.—Parties intending to marry must file notice with the clerk, after which he issues license; and certificate is returned to the town registrar, who records it. Inhabitants of this State going out of the State to marry, in order to evade law, marriage declared void. No registry of births.

MICHIGAN.—License issued by county clerk, and certificate returned to him; clerk records it. No registry of births.

MINNESOTA.—No license; but the minister or magistrate who performs ceremony must examine one of the parties, on oath, as to whether the proposed marriage is such as the law allows; certificate of oath and marriage returned to the county clerk for record. No registry of births.

MISSOURI.—License by clerk, and certificate returned to him for record. No registry of births.

MISSISSIPPI.—License issued by registrar of orphans' court, and certificate returned to him for record. No registry of births.

NEW HAMPSHIRE.—The intention to marry must be published at three meetings, either religious or town meetings; certificate of town clerk of such publication is the license; it is returned to him and recorded. No registry of births.

NEW JERSEY.—No license is required; but certificate of marriage to be returned to town clerk, and by him recorded. No registry of births.

NEW YORK.—No license is required; but certificate of marriage must be returned to the registrar of births, marriages, and deaths; provision is also made for the return of all births, but not generally enforced.

NORTH CAROLINA.—License to be issued by county judge or clerk, and certificate returned to clerk, who records it. No registry of births.

NEBRASKA.—Judge of probate issues license, and certificate is returned to that officer, and he records it. No registry of births.

NEVADA.—No license required; certificate returned to county clerk, who records it. No registry of births.

OHIO.—Bans may be published in church, or a license from clerk of county court, to whom, in either case, certificate is returned for record. No registry of births.

OREGON.—No license is required; but certificate returned for record to recorder of the county court. No registry of births.

PENNSYLVANIA.—No license required; but the person solemnizing the marriage must keep record. No registry of births.

RHODE ISLAND.—No license required; but return must be made by person solemnizing marriage to town clerk for record. No registry of births.

SOUTH CAROLINA.—License from the clerk of the county court, and return made to him for record. No registry of births.

TENNESSEE.—License from clerk of county court, and return of certificate to him for record. No registry of births.

TEXAS.—License from clerk of probate court, and return of certificate to him for record. No registry of births.

VERMONT.—Publication in either church or town meeting; certificate returned to town clerk for record. No birth registry.

VIRGINIA.—License from county court, and return of certificate to court for record. No registry of births.

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WEST VIRGINIA.—License from clerk of county court; certificate returned to that officer for record. No registry of births.

WISCONSIN.—Person solemnizing to examine one of the parties on oath; to make certificate and return the same to the county clerk for record.

TERRITORIES.

COLORADO.—No marriage-license required; but certificate to be returned by the party solemnizing to the clerk of county for record. No registry of births. In this Territory if a married man dies without a will or issue, all his property, real and personal, goes to his widow.

DAKOTA.—No marriage license required, and no record kept. Judges, justices of the peace, and ministers of the gospel may solemnize. No registry of births.

IDAHO.—No license required; but party solemnizing must, within three months, return certificate of, to county recorder for record. No registry of births.

UTAH.—No license required, and no registry of either marriages or births.

WASHINGTON.—No license required; but certificate to be returned by the party solemnizing to the county recorder for record. No birth registry.

NEW MEXICO.—No license required, and no registry of marriages or births.

I am, gentlemen, your obedient servant,

HAMILTON FISH.

NOTE.—In the several States and Territories penalties are imposed by the statutes for a failure to comply with the requirements as to license or return of the certificate—in some cases against the parties to the contract, in other cases against the party solemnizing the marriage, and in some instances against all parties; but in none of the States or Territories is the marriage null and void because of a non-compliance with the requirements of the statute.

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CORRESPONDENCE.

III.—ARGENTINE REPUBLIC.

No. 7.

Mr. Clapp to Mr. Hunter.

No. 29.] UNITED STATES LEGATION,
Buenos Ayres, February 12, 1873. (Received March 22.)

SIR: I regard it as my duty to report to the Department of State certain difficulties and obstructions which militate against the increase of commerce between the United States and the River Plate countries.

Some of these obstructions are, as it appears to me, aggravated by a company which receives a subsidy from our Government, and some of them may perhaps be mitigated by the action of our representatives at Rio de Janeiro.

I will first speak briefly of the remarkable progress which the Argentine Republic is enjoying at the present time. Real estate in this city and vicinity has at least tripled in value within the last three years. The amount of imports have increased in a similar ratio.

During the last two months there have arrived at this port fifteen thousand and eight hundred immigrants, and there are thirteen hundred others at this date in quarantine. Large amounts of English capital are being invested in various enterprises, especially in railroads. The Central Argentine road is being extended beyond Cordoba, and will soon open up the central provinces as far as to the Andes.

A new road has been built from Buenos Ayres to Ensenada, and a new port for this city will soon be opened there. Various new industries and manufactures are being introduced, and in short almost every branch of business is exhibiting a wonderful development.

There are now twenty-three large European steamers of regular lines that enter and leave the river Plate every month, besides various irregular steam-vessels.

The following extract, from the Daily Standard of this city, is a list of various public works that are now under way, or will soon be commenced:

	Number of hands.
1. Bateman port scheme	2,000
2. Sewerage and water-works	2,500
3. Rosario Railway	500
4. Chascomus and Dolores Railroad	500
5. Tucuman Railway	1,000
6. Rio Cuarto and Mercedes Railway	500
7. Santa Fé and Colonies Railway	500
8. Mutual Gas-Works	1,000
9. New post-office	100
10. Telegraph and Capitania	100
11. Lujan Railway	500
12. 25 de Mayo Railway	500
13. Removal Parque station	500

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	Number of hands.
14. The five new provincial railways voted last session, and bids to be opened in July	5,000
15. New national-bank building	200
16. Catalina wharf	200
17. Port Wise tram-way	100
18. Ensenada port works	300
19. Suburban roads	500
20. New prison	200
21. New lazaretto	200
22. Belgrano gas and water works	200
23. Independencia tram-way	100
24. Extension Western Railway to Boca	100
	15,800

At the period of this almost magic progress there is a similar increased demand for articles of North American production. The imports of lumber, kerosene, and starch have apparently doubled, while there is springing up a very promising commerce in American furniture, carriages, street-cars, glass-ware, and many other articles of manufacture. The obstructions to the development of this commerce with the States, to which I wish to ask attention, are, not to speak of the want of direct steam communication—

First, the necessity that all freight sent by steamer from New York to the river Plate must be landed at Rio, pay various custom-house charges, and pass a tedious custom house process. Even those houses of business that have responsible agents at Rio have their goods delayed there from two to four months. Six months is not an unusual delay for packages of valuable articles that had been shipped by steamer in hope of a quick arrival.

I know a merchant who has been for fifteen months endeavoring to obtain a package of pictures that came by steamer from New York. The expense on merchandise in the Rio custom-house is often greater than the total freight from New York to Buenos Ayres. Could not an arrangement be made by the intervention of our diplomatic or consular representatives by which this delay and expense could be avoided?

The second obstruction is the neglect and refusal of the United States mail line of steamers from New York to Rio to encourage the quick passage of freight and mails to the river Plate. As an instance of this, as it seems to me, gross neglect by that company to do what it can to foster the commercial and manufacturing interests of the country from which it is receiving a large subsidy, an American merchant, doing business in this city, was in Rio during the month of June last. He called on the agent of the company and proposed to place a man on board each steamer, when it arrived, to take charge of packages as they came out of the hold, and remove them to a steamer bound for the river Plate; all this at his own expense, he also proposing himself to obtain permission for this arrangement from the Brazilian authorities. Mr. Carrire, the agent, promptly refused to grant the privilege. My informant then said, "But, Mr. Carrire, you ought to do this to encourage commercial intercourse between the States and the river, and you would also augment largely thereby your carrying-trade." To this Mr. Carrire replied: "We do not want to encourage intercourse. We have all the business we want."

I am informed, though I know not as to its correctness, that this company is engaged largely in the coffee trade. If this is so, it would seem that the company is using the gratuity of the Government for its own commercial benefit, to the neglect of our general commerce and manufacturing interests.

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When the steamer from New York arrived at Rio on the 20th day of January last with the United States mail, the steamer Galatea, bound for Buenos Ayres, was there at anchor, and it remained for eighteen hours after the arrival of the American steamer. Passengers for this city were transshipped. The naval mail was taken on shore by the naval agent, overhauled, and the package for Rear-Admiral Taylor was forwarded, arriving here on January 26; but the United States mail, with that of the Department of State, was neglected, and did not reach Buenos Ayres until February 5.

It is true that the Galatea is not a regular mail-steamer, but it is also true that it belongs to a line, Lamport & Holt's, the steamers of which always carry the mails free of charge, both for the English and other governments. This is a fact generally known.

The agent of the line in this city assures me that they are always glad to bring the mails from Rio without charge. A very little trouble on the part of our mail-agent on board the American steamer would have avoided this very unfortunate delay.

Mr. Andrew Spring, a very prominent merchant of Portland, Maine, came to Rio on the American steamer Merrimack, leaving New York in October.

He informs me that the favorite subject of conversation of the mail-agent, who is also an officer of the boat, was his disgust at having to take charge of the United States mail, habitually cursing the mails and the Government.

I mention these points to show the spirit with which the company performs the Government mail-service in return for its bounty. This unreasonable and unnecessary delay of the mail is not a solitary instance, but has become a custom, and is a subject of frequent and disagreeable paragraphs in the papers of this city. I will not speak of the extreme annoyance and possible serious loss which this delay causes to all persons living here who are interested in the United States mail, but respectfully ask attention to the certain injury to American commerce and manufactures.

If the mail could arrive regularly and promptly, it would enable merchants to place a greater confidence in their transactions with their correspondents in the States, and consequently increase the amount of those transactions. If small packages of merchandise, and especially samples, could be sent by steamer without delay at Rio, it would cause a very large increase of orders for certain classes of goods, and create a market for many articles that are now practically excluded from these countries.

It would immediately be the means of causing a large subscription to North American periodicals and books, and, by means of their advertisement, bring our productions before the large English-speaking community here. American periodicals are, as a rule, much better adapted to the wants and tastes of this community than those of any other nation; but several efforts of news agents here to establish a subscription for them have failed, solely through the delay and failure of reception.

I am, &c.,

DEXTER E. CLAPP,
Chargé d'Affaires ad interim.

NOTE.—I regret that I have not been able to give the above dispatch a careful revision. The press of regular work in both the consulate and legation have prevented my giving any time to it except late night hours.

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No. 8.

Mr. Clapp to Mr. Hunter.

No. 34.] UNITED STATES LEGATION,
Buenos Ayres, April 15, 1873. (Received May 21.)

SIR: I have the honor to report that General Bartolomé Mitre, having returned from his mission to Brazil, in which it appears that he has been entirely successful in placing the delicate questions between the two countries, arising out of the Paraguayan alliance, on a satisfactory basis, has been dispatched to Paraguay, with full powers to negotiate the treaty which the above-mentioned alliance contemplates.

The Brazilian minister to this country, Baron de Magallaens, has also gone to Paraguay to represent Brazilian interests.

I am, &c.,

DEXTER E. CLAPP.

No. 9.

Mr. White to Mr. Fish.

No. 10.] LEGATION TO THE ARGENTINE REPUBLIC,
Buenos Ayres, May 14, 1873. (Received June 21.)

SIR: I have the honor to inform the Department that a part of the people of Entre Rios, a state or province of the Argentine Confederation, are in arms against the constituted authorities.

In the absence of official information, it is not practicable to state, with certainty, the reasons for this rebellion or outbreak, but public opinion here would indicate that it is directed against the state authorities rather than the federal, and that it is by no means formidable.

Troops have been sent to operate against the insurgents, and accounts have been received, stating that a considerable number of them had been attacked and dispersed.

From the fact that the President in his annual message to Congress only alluded to the disturbance, to say that it would be made the subject of a special communication, which has not yet been made, it would appear that the government does not deem it of pressing importance.

I am, &c.,

JULIUS WHITE.

No. 10.

Mr. White to Mr. Fish.

No. 13.] LEGATION TO THE ARGENTINE REPUBLIC,
Buenos Ayres, June 8, 1873. (Received July 22.)

SIR: I respectfully transmit herewith a copy of the message of President Sarmiento to the Congress of this republic at the opening of its present session, and have marked such passages as are deemed noteworthy as showing the advancement of this people in modern civilization.

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While commentary upon any of the subjects thus designated may be unnecessary, I trust it will not be deemed improper to call the special attention of the Department to the following paragraph of the message:

A discussion is pending with Chili upon the Straits of Magellan, and a recent circumstance which might have endangered a peaceable solution of the question was amicably disposed of the very moment it assumed a disagreeable character. Whatever importance may be given to this subject, the governments of Chili and of this Republic, in prevision of any serious difficulty, have established by treaty that the question of boundaries should be submitted to arbitration in the event of a failure by diplomatic means. This honorable method of settling international disputes was adopted only a short time ago by two of the most powerful nations of the earth, and should be imitated, as it was applauded, by all others.

This seems to furnish a striking proof of the wisdom which dictated the establishment of the principle that war, with its long train of concomitant evils, may be honorably avoided in most, if not all cases, by reference of disputed questions between nations to the award of disinterested parties. The history of the Spanish-American states exhibits among their peoples a keen sensitiveness upon all questions affecting their national honor, or the integrity of their territory, and a strongly marked tendency to belligerency as the proper method of settling them. The prompt adoption of the precedent established by Great Britain and the United States, by people with such tendencies, is, to say the least, a gratifying evidence of the progress of anti-war sentiment, and warrants the hope that this, or similar methods of adjusting differences between civilized nations, may become general.

The realization of this hope would constitute at once an era in the history of civilization, and one of the most glorious pages in that of the great nations by whose agency it was accomplished.

I have, &c.,

JULIUS WHITE.

[Inclosure.—Translation.]

Message of President Sarmiento to the Congress of the Argentine Republic.

Messrs. SENATORS AND DEPUTIES: Upon opening the legislative chambers this year I feel much pleasure in saluting the members now present. The recent carrying out of the law relative to the census returns enables us to enter fully upon the representative system.

The past year has been remarkable for the peace enjoyed by all nations, and more particularly our own.

The benefits of peace may be judged by the increase of prosperity shown by the extraordinary value of land, the accumulation of capitals, the multitude and variety of enterprises set on foot, and the increase of income. It may be said without exaggeration that this is one of the countries which, as far as material progress is concerned, exceeds every other upon the face of the globe.

In a separate message the executive purposes laying before the house the attempts at a revolution in Entre Rios, on the 1st of the present month, and the measures adopted to render those attempts abortive.

FOREIGN AFFAIRS.

Our relations with other governments continue on a footing of friendship, and in that conciliatory spirit which is characteristic of the institutions we enjoy. Various treaties and conventions have been entered into, or are pending your resolutions thereupon, in order that the reciprocal interests involved may obtain a more perfect solution.

By means of a diplomatic mission the difficulties with Brazil relative to the practical mode of carrying out the treaty of alliance were satisfactorily terminated; and it is my duty to add that the government of that empire have fully justified our previous assertion, that the incidents which gave rise to the misunderstanding have in nowise diminished the cordiality between that country and the Argentine Confederation.

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A minister plenipotentiary has been sent to Paraguay for concluding the treaties consequent upon the alliance, and a favorable result is confidently anticipated notwithstanding the revolutionary spirit observable in that republic.

With Bolivia little has been done on account of the absence of the minister who commenced the negotiations. It may perhaps be necessary to appoint one to that republic in order that a definite arrangement may be arrived at, everything for the present remaining in *statu quo*.

Quarantine arrangements are in course of discussion with the government of Montevideo, together with others, for the prevention of smuggling.

The postal law is in operation with the United States, and that of extradition with Brazil; the postal law with the latter being yet pending, as also the treaty of friendship and commerce with Sweden and Norway for reforms introduced by congress.

PUBLIC INSTRUCTIONS.

Four thousand pupils are now being educated in what is generally termed primary instruction in the national school. Taking into account, also, the number of children under instruction in private colleges, great advancement in this respect may be said to have been made during the present year.

Two of the provinces have claimed the premium of $10,000 accorded to those who succeeded in registering in their respective schools a number of pupils equal to the tenth part of their population.

Various provinces have passed laws for the purpose of raising funds of their own in order to dispense with the national subvention, thus becoming independent of so precarious a situation.

From an official census, taken with great care, it is shown that 97,549 pupils are under education at 1,645 schools, to which number Buenos Ayers contributes 32,000, and, if those who attend the university, the seminaries, and private colleges be taken into account, the number is then increased to 103,000 Argentines now receiving education.

LIBRARIES.

A great and pleasing effort, in which the administration has taken an active part, has been made for the purpose of circulating books, the truest and most important food for the mind.

One hundred and twelve libraries have been established in various parts of the republic, some so obscure and remote that their very existence may be said to have been revealed thereby. And should this movement continue to increase as hitherto, it may be asserted that every book published in any and every part of the world in the Spanish language will be read three months afterward by the whole population of the republic. By these means we should succeed in bringing the people into direct and immediate contact with human thought in different parts of the world where the Spanish language was employed as the means of conveying it.

If this system were generalized throughout Spanish America, it would be impossible to foresee the intellectual progress that would result, facilitating, by a large circulation, a knowledge of the daily advancement of other nations, thus contributing to the common fund of human knowledge.

The government, to give an impulse to this system of diffusing instruction, would go so far as to make it a matter of diplomatic convention with the remainder of the Spanish-American republics.

The Normal School of Preceptors in Parana has now been established two years, and everything leads to the belief (thanks to the zeal and professional capacities of its director) that, when the studies are terminated, there will be a number of theoretically practical men prepared to impart instruction, the only true basis that should be sought for all republican institutions.

The Normal School at Tucuman is in course of construction, and many other public buildings are in preparation and under repair for the purpose of giving greater facility and a wider extension to education generally.

The Astronomical Observatory, now terminated, is becoming of importance, having already been the means of furnishing science with new and interesting data.

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HOME DEPARTMENT.

The telegraph-wires and even railways have suffered by late inundations, which have caused ravages in many of the provinces, and an outlay for repairs will have to be submitted to.

The government, depending upon your approbation, granted funds for the relief of four provinces. A map will be laid before you, in which the lines of railway already open, and those now in construction, decreed or conceded, are clearly indicated, and show that, within a short time, the country, in this respect, will be on a par with many of the most advanced. The railway from Cordoba to Tucuman is in construction; the works of leveling are in a forward state, and the first section will be opened to public traffic within two months from date. The railroad to Ensenada is almost finished; that to the port of Campana has been commenced, and five others are under offer of tenders.

INTERVENTIONS.

The putting to death of the governor of San Juan caused the dissolution of the party which supported him, and further disturbances rendered national intervention necessary.

That province has experienced four interventions, exacted by tragical or anomalous events, and the executive always meeting with a resistance which has impeded its good offices when it has not wished to appeal by force.

In the present case the commissioners appointed ordered a repetition of the elections, which were the pretended object of dispute, but, as only one of the contending parties came forward to vote, the government has refused to approve the result obtained at the second election.

TELEGRAPHS.

The line of telegraphs is completed, and extends throughout the republic. There are 4,000 miles of wire in operation.

Up to the present the cost exceeds the returns, as a low scale of prices has been adopted with a view of accustoming the public to take advantage of it, and this has not been fruitless.

The telegraph is a kind of correspondence, the transmission of which belongs to the nation. Almost all the European powers made the telegraph a branch of the public administration. England has expropriated those of private companies, and the United States are preparing to adopt the same course. The government, in view of these facts, have refused fresh petitions for concessions of the telegraphic lines in the provinces, fearful of being unable to redeem them for future purposes, and to avoid an excessive charge to the public.

IMMIGRATION

Continues to augment, and the present year promises to show a considerable increase upon any previous one, notwithstanding the attempt made in Europe to prevent it. Up to the 31st March last, 14,468 immigrants had arrived during the three months from 1st January. Commerce with Spain, Italy, and France augments in proportion to the number of immigrants that arrive from thence, as the latter produce an increased demand for the articles imported from those countries. The United States, for this reason, is the principal consuming country of English manufactures, and in the rest of America the commerce of Italy and Spain is very reduced in comparison with that of the river Plate.

I should not here pass over the semi-official publication in England of a virulent attack upon this country, undertaken by a functionary who endeavors to persuade his countrymen that the commercial statistics of this country are false, and that the position of English residents who have become wealthy in the exercise of their several professions and trades are, perhaps, the most unfortunate among them.

It is to be deplored that any attention is paid to such personal attempts of palming an unjust criticism as the result of a superior tact and ability on the part of the author, whose only merit consists in drawing an exaggerated caricature of imperfections, inseparable upon every reform, upon every improvement, and which, in England itself, would be altogether unavoidable. Important protests upon this subject have been made, and the gentlemen who represent the Argentine government in Europe have been instructed to enlighten public opinion upon every topic connected therewith.

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FINANCE.

The public income, calculated at 16,160,000, has produced 18,172,379 patacones. Compared with the previous year an increase is shown of 5,490,224 patacones.

The expenditure authorized by the five different ministerial departments amounted to the sum of 26,462,785.57-looths patacones, and 23,992,975.84-looths patacones have been paid, the difference between the income and the expenditure having been made up by credit operations. The ordinary calculation of the budget, 28,622,785.40-looths patacones, has given an excess of 4,778,449.88-looths patacones. Of the special laws authorizing the government to employ, in public works and law expenses, the sum of nineteen and a half millions, only the sum of two millions have been yet disposed of.

The total receipts and expenditures of the national treasury have amounted to 136,179,181.42-looths, or a sum bordering upon 3,422,000,000 of the paper currency of this province.

International commerce has reached the cipher of 105,000,000 of patacones, (official valuation;) the maritime movement has been 3,718 sailing-vessels and 2,283 steamers, forming a combined tonnage of 2,151,640 tons.

The public credit of the nation both at home and abroad has been well maintained. The loan scrip in London is quoted at 97½, and public funds at home have reached 81 per cent.

For treasury bills the government has paid here 6 per cent. per annum, and at times, but very rarely, 7 per cent. per annum.

Under the general prosperous conditions of the country, the important monetary transactions of the Provincial Bank, and of those of the private banks, should not be passed over in silence. In foreign markets every enterprise proposed to be undertaken in the Argentine Republic is accepted by capitalists with enthusiasm.

The law for the establishment of a national bank is in course of execution, and should any difficulty present itself to bring the same into operation, it will arise from a surplus of the subscribed capital over the 20,000,000 designated for the purpose.

Whatever misunderstanding may arise on this matter will probably have to be submitted for consultation to your honorable body, but it is highly satisfactory in the mean time to observe the amount of confidence inspired by the national guarantee.

The loan for public works is gradually being realized upon the most favorable conditions, and according to the measures that prudence dictates; the quotation of that stock exceeds any hopes that could have been entertained in reference thereto, and the greatest proof of the high credit enjoyed by this republic in foreign markets, as also the confidence entertained as to the immovable political situation thereof.

ADMINISTRATION OF THE ARMY.

In this department, excepting the laborious revision of the list of men in service during the war with Paraguay, which revision is now on the point of being concluded, the whole of the service, provisions, clothing, armament, pay, etc., are on excellent footing and delivered in proper time in the encampment where the forces may then happen to be. The frontiers generally are well supplied with forage by the cultivation of the surrounding land, and reserve horses are at hand in large inclosures properly wired in.

As far as fire-arms are concerned, a fresh supply will speedily remedy every present defect in this particular.

MILITARY SCHOOL.

This establishment is gradually becoming of the greatest possible utility, and a gradual improvement will be introduced in the military service, as required by the exigencies of modern warfare.

The able professors who direct it have done their duty, and the best European systems are adopted by them for instruction.

The complement of professors who direct the college referred to has been completed by the arrival of a captain of artillery of the Prussian school, engaged by government for the instruction of the cadets in the use of this class of arm.

MARINE.

The Nautical School has been installed as ordained by law, and the midshipmen now brave the ocean tempests in the steamer "Brown," which serves them for putting into practice all they acquire by theory.

An expedition to explore the Rio Negro was ordered, for the purpose of ascertaining the correctness of the data already obtained and acquiring a further knowledge as to

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its extension and the circumstances under which its navigation might be effected. An exploration by land was to complete this object. Both were brought to the desired determination, and arrived back safely with all particulars, which will be found in a detailed account of the same already made public.

The time has now arrived for the building of arsenals for war-vessels to defend our coasts, and for the conveyance of the necessary elements which they demand; the carrying out of the law providing for the increase of the marine and acquisition of vessels with all modern improvements has been confided to able and experienced officers. The construction of iron vessels has now become an industry of the country, and the abundance and durability of the Chaco timber will speedily be made use of for naval purposes, so far, at all events, as the river-craft is concerned.

The Steamer "Governador Leguizamon" is now anchored in the port, which, from ten leagues below Oran, has descended the river Bermejo in seventy-two hours, without obstacles of any nature, the natural ones having been removed by the persons who undertook the enterprise. This trial promises to enlarge the sphere for immigration and furnish the interior with a new fluvial means of communication with other ports of the republic.

JUSTICE.—PUBLIC WORSHIP.

In addition to filling the vacancies caused in the administration of justice by lamentable losses, the law abolishing imprisonment for debt has been brought into operation. The civil code is now in the hands of every one, the first edition having been entirely expended, and should your honorable body succeed during the present session in terminating the reforms under discussion in the commercial code, already dispatched by the committee appointed for its examination, together with the criminal code, a great step would be made towards the perfection of our whole judicial system.

In everything relating to worship, I can only state that, in addition to the assistance given for the erection of several churches, the illustrious Archbishop Aneiros, on account of the resignation of the Rev. F. Esquiox, exercises the duties devolving on the first dignitary of the church, his name having been presented to His Holiness the Pope for canonical confirmation.

WAR DEPARTMENT.—INCREASE OF THE ARMY.

The enlistment of soldiers for the army has taken place in several of the provinces, and a few hundred men thus obtained have been duly equipped. As regards the veteran forces, many whose term had expired have re-entered the service for a fresh term, either from a love of their country or of a soldier's duty.

Many difficulties lie in the way of carrying out the law of recruitment, which will opportunely be brought before you for remedy. It is not only necessary that laws should be liberal and just, but that they should also be practical and adequate to circumstances, and to the country for which they are intended.

The army now defending the republic is distinguished for its moral bearing, and worthy to serve as a plain example to those who will speedily enlist under the same banner.

FRONTIERS.

The various topographical charts and circumstantial descriptions of different localities by engineers and practical persons furnish an exact description of the points upon the frontiers under defense and their respective distances from each other. The advantages of the system adopted have been confirmed by the best military authorities in the country, and by the fact that during the past year no important event has occurred to disturb the frontier settlers.

Partial treaties with the principal chieftains of the tribes, whereby their most urgent requirements are satisfied, lead to the hope that a state of peace will be the normal condition of the frontiers in the course of a very short time.

Many of the northern tribes have voluntarily become submissive, and at the latest truce held with the southern and western envoyees, the younger men in command have shown an inclination to abandon the wandering life of the desert. Civilized habits, which daily become more general among them, together with the difficulty and danger attached to plunder, will finally induce them to follow the example of Catriel, Coliqueo, and others who now enjoy the commodities of civilized life and the protection of government.

The savage tribes who inhabit the margin of the Bermejo, alarmed at first by the unlooked-for appearance of the exploring steamer, hostile subsequently and driven away, have now for some months past become docile, and not only accompany the explorers, but, aware of the advantages they will derive from commerce and civilization, have undertaken the canalization of the river referred to, working in gangs, which are regularly relieved and replaced.

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QUARANTINE.

Our proximity to tropical countries in which malignant and contagious fevers are endemical, imposes on us occasionally the disagreeable duty of establishing regulations prejudicial to commerce. The measures hitherto adopted by government in this respect have been successful.

But the alarm of any propagation of this dire disease is now so frequent that it becomes urgent to carry out the idea of establishing lazarettos at the entrance of the river Plate, as recommended by the medical profession. Negotiations with the Montevideo government have been entered into for this purpose.

Upon terminating the exposition of past events, it is now my duty to call the attention of Congress to the period upon which we are entering, that of a change in the administration.

Great excitement generally prevails on all such occasions, but it is to be hoped that no excesses will be the result, having on one occasion, at all events, obtained his boon.

The present administration, now about to deliver over its trust, has been unable to correct all the defects inherent to a young republic, nor can it, at its expiring moments, do anything of very grave prejudice to the institutions it is bound to protect.

The preservation of order and tranquillity is now the only task before it, and to this end it relies upon your decided support, as representatives of the Argentine people, who elect you in order that you may secure to them all that the interests and the honor of the country demand.

To other administrations will belong the glory of correcting the defects of the past, or forward the work now so far advanced. But it would be a melancholy task to wish to expose us just now to criticism and recrimination at a moment when it is more than ever necessary to seize firmly hold of the rudder of the state, to direct it against the impetus of the infuriated waves, and guard the barriers so that the combatants may not sally from the lists. Tyranny is not in the immediate past, but should it make its appearance, it will arise from disorders and from internal disputes, but never from the open exercise of the constituted power.

Thanking Providence for having conceded us a year bounteous in the increase of national prosperity, in the extension of education of the people, under the tranquil influence of peace, and shielded by the free institutions we may justly boast of, I declare, honorable senators and deputies, that the sessions of Congress are open.

D. F. SARMIENTO.

MAY, 1873.

No. 11.

Mr. White to Mr. Fish.

No. 15.] LEGATION TO THE ARGENTINE REPUBLIC,
Buenos Ayres, June 13, 1873. (Received July 22.)

SIR: I have the honor to transmit herewith a copy of the message of President Sarmiento to the Congress of this republic, relative to the rebellion in the province of Entre Rios.

I have not been able to obtain any official information, except what is contained in this document, and an oral statement made to me by the secretary for foreign affairs, that the insurrection was not considered formidable by the government.

So far as I am able to learn, no important engagement between the armed forces of the insurgents and those of the government has occurred.

I am, &c.,

JULIUS WHITE.

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[Inclosure.—Translation.]

The President's message to the Congress of the Argentine Republic relative to the affairs of Entre Rios.

To the Honorable Legislative Congress:

The executive have the honor of informing your honorable body that Entre Rios is in open rebellion against the provisional and national authorities, that rebellion being set on foot and influenced by Don Ricardo Lopez Jordan, (complicated in the assassination of Captain-General Don Justo Jose Urquiza,) who has invaded that territory with an armed force, depending upon accomplices in the interior, and threatening, by inducement to revolt, or by other means, the other two provinces of the Litoral, which places the nation in danger, and, in the opinion of those who are acquainted with the designs of the invader, imperil the institutions of the country, which have become the first boast of all patriotic Argentines.

The former rebellion having been suppressed by the national arms in conjunction with the national guard of that province in 1871, after a very serious outlay of funds which were destined by the treasury for other purposes, a general amnesty was declared in favor of those who had taken part in that outbreak, and not one of its promoters was either expelled the country or submitted to the proper authorities for trial. For the purpose of electing a governor, the law of Congress which ordered the repression of the criminal attempt of Lopez Jordan, had suspended the state of siege, and the loyal militia, who had so valiantly contributed toward the re-establishment of order, were disbanded and paid, thus causing a disbursement of several thousand dollars.

It is necessary to refer to these matters in order to show that no ostensible reason existed for again taking up arms and putting the country into a state of commotion, such as now occurs.

The lenity of Congress and of the executive inspired the citizens of Entre Rios with a spirit of temperance and forbearance, as shown by the election as governor of a worthy citizen, of unimpeachable conduct and liberal tendencies. These qualities, of the greatest importance in moments of public tranquillity, and in a country where a military regimen had not prevailed for years, were made the subject of complaint and induced him to resign; his successor, who, besides being adorned with similar qualities, had exercised the judicial power with credit to himself and satisfaction to others.

These facts, although they may prove the inexperience of the inhabitants of the province in question as regards the election of the person requisite for the circumstances, show, at all events, that said election was the true expression of the popular vote, without any attempt at coaction, or the exercise of any tyrannical act. The national government, foreign to all these local proceedings, maintained a small force of the line to preserve public order, which was continually threatened by fresh rumors of revolution, under the direction of the man who had been declared a rebel by your honorable body, and who was reclaimed by justice as a traitrous assassin.

Nevertheless, for months past, a rumor has been gaining ground of a vast revolutionary plan which was to involve the provinces of Entre Rios, Corrientes, and Santa Fé, and the national government being in possession of reliable statements of the proximity and certainty that Entre Rios would be the first attacked, warned the governor thereof, who, in reply, gave the most ample assurances that he was in a position to frustrate any such plan, in the event of its being attempted.

Nevertheless, on the 1st of May, several villages and towns were simultaneously surprised by bands of marauders, the only ones that successfully resisted the attack being Parana, defended by its own police force; Concordia and Uruguay, garrisoned by national troops, and Gualeguaychu, saved by the inhabitants themselves, who spontaneously took up arms and courageously drove the rebels back.

Gualeguay was delivered over to rebellion by the authorities themselves, and, although this circumstance proves a deplorable want of experience on their part, this very reproach is the strongest proof that neither those who had been recently admitted by the law of amnesty, nor any one else, were under persecution for past political opinions, and that no important reason existed for provoking a conflict.

The national government, requested to interfere, and, in obedience to its duty, to suppress rebellion, issued the annexed decrees, and has taken the necessary measures to protect the towns which still continue loyal, until the true extent of the revolution be ascertained and measures organized to repress it.

As far as can be at present judged, the movement is a general one throughout Entre Rios, but has not extended to Corrientes as expected, and, having been forestalled in Santa Fé by the prudence of its governor, will be confined to the first-named province.

The origin of this rebellion, which no apparent cause appears to have warranted, has, in the opinion of the national government, a tendency so anarchical that, were it left unchecked, it would endanger the institutions, which have been the work of the last twenty years, with the overthrow of a tyrant in the first place, with the incorporation of Buenos Ayres in the next, and, lastly, with that reconciliation which has tacitly

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been agreed upon by the federal and Unitarian parties. General Urquiza had regained the respect of all, and the title of liberator of his country, bestowed on him in Caseros, together with the glory of having been the founder of the present constitution, and, what is still more meritorious, of having devoted all his efforts to cause it to be accepted by those who were formerly its strongest opposers.

Unfortunately the elements which he turned to account for his own personal aggrandizement, which murmured and clamored for former military sway, which he himself had abdicated and abandoned, in obedience to the national constitution, to civilization, and to the public liberties of the people.

Entre Rios for twenty years was traditionally organized, not by civil law, but as a vast military encampment.

Upon the formation of the first Spanish and English colonies in North and South America, under the dominion of that time of the wild Indian, the colonists, as a condition of existence, had to arm themselves repeatedly to drive back the savages who sought their extermination. The community of danger made soldiers of them all, and victory gave authority to the most daring, or to the first who gave vent to a bellicose ardor of expression, clothing themselves in a garb of military pre-eminence.

Such is the origin of the American militia. Upon the emancipation of the colonists the English portion produced a Washington, chief of a fortunate expedition, detached against the Indians. In this country the first appearance of any organization of the nature referred to may be found in the proceedings of Artégas, followed by those of Quiroga, Lopez, Rosas, and Urquiza himself, assassinated by Lopez Jordan, should not be excluded, the latter of whom has basely taken advantage of elements already prepared, and by one decisive blow, however criminal, has brought to his standard those who, abandoning civilized life, depend for their support on a state brought about by terror and pillage.

This is not an imaginary picture, but the real cancer which preys upon the vitals of the republic; the former militia, converted into a warlike element, fatal to all pastoral pursuits. The history of the country abounds in similar examples. Almost fifty years of continual struggle have been employed by our predecessors against Quiroga, Ramirez, and Artegas. The tyranny exercised subsequently by Rosas will not readily be effaced, and whatever claims may be urged to civilization and advancement, there is yet much to be done before the Argentine nation can sit quietly down to partake of the banquet at which the principal nations of the world reclaim a seat.

Such, in a few words, is the situation and danger that the executive now lays before congress, in order that the latter may accept the melancholy but inevitable task of carrying on the self-imposed duty of their forefathers, the struggle of civilization against barbarism; of terminating a cival war which has no other object than the lust of an irrational ambition, and the pretended soldiers of which never presented their faces to the enemy in Chacabuco, Ituzaingo, or Paraguay, and whose only proceedings, to their lasting disgrace, were their insurrections in Basualdo and Toledo, the greatest dishonor that could have been conferred upon the Entre Riano militia.

When the flag, triumphantly unfurled by San Martin and Rivadavia, to which Urquiza became a convert in the latter part of his life, is again shaken to the breeze, Argentines forget their dissensions and become the renowned champions of civilization and liberty. This was proved yesterday in the message to your honorable chambers: let it now be proved by a strict adherence to the principles we proclaim, suppressing anarchy wherever its fangled head becomes apparent.

No state is entirely free from internal turmoil. In the same way that Holland may become a victim to inundation by the destruction of a pile, so, also, have the United States experienced the most disastrous civil war, simply because their forefathers, three hundred years before, introduced to the country a slave population. In the same manner, France has suffered the greatest humiliation and loss, frightful even to contemplate, in a mistaken opinion regarding true military glory and moral worth.

In the self-same manner we, also, have to undertake a crusade against our own countrymen unless we are prepared to deliver ourselves over to a state of barbarism and the most frightful period of retrocession, as the first inhabitants of this country were a set of barbarians, but becoming mixed with those of European descent, a change of government was gradually introduced, and a state of civilization supplanted one of pillage and bloodshed.

Such is the character of the insurrection promoted by Lopez Jordan, the threefold assassin of the family of Urquiza, and now the cut-throat and confiscator of property, as he may capriciously determine upon.

The executive, in use of the faculties with which it is invested, and in protection of the public peace, have determined on placing in the field a certain number of the national guard, declaring in a stage of siege the province now threatened, and purposes requesting from your honorable chambers the organization of other powerful means of action, until the ruthless invasion by the criminal Jordan be entirely stamped out.

God preserve your honors.

D. F. SARMIENTO.
LUIS L. DOMINGUEZ.

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No. 12.

Mr. White to Mr. Fish.

No. 20.] LEGATION TO THE ARGENTINE REPUBLIC,
Buenos Ayres, August 12, 1873. (Received September 20.)

SIR: A dispatch, No. 8, dated April 19, 1872, addressed to Dexter E. Clapp, esq., late chargé d'affaires to this government, directs him to keep the Department of State fully informed of whatever may occur threatening the independence of Paraguay or the contraction of her boundaries.

Fears have been expressed in my hearing, by persons representing nations more directly interested than the United States, that the terms imposed upon Paraguay by the parties to the triple alliance in the late war, consisting of territorial concessions, as well as large indemnities in money, were such as would render her powerless for a long time to come, insignificant, at best, for all future time, and probably result in her ultimate obliteration from the map as an independent state.

Whether these fears have a substantial foundation, or whether the demands upon Paraguay are incompatible with justice or with the dignity and leniency which should be shown to a prostrate people, it is not the purpose of this dispatch to discuss; but considering the nature of the instructions contained in the dispatch to Mr. Clapp, above alluded to, it is deemed a duty to advise the Department of the present aspect of the subject, and to do this properly it will be necessary to recount something of its previous history.

The protocol signed by the allied powers, and the provisional government of Paraguay, after the death of Lopez, and upon which hostilities ceased, provided, among other things, that all questions of boundaries should remain *in statu quo ante bellum*, to be adjusted, together with any claims for indemnity, by diplomatic discussion, or, (inferentially,) if necessary, by arbitration.

In pursuance of this stipulation, after a considerable delay, a "rectification" of the northern boundary of Paraguay was agreed upon between the representatives of that republic and Brazil, by which it was fixed at the Apa River instead of the Blanco, which has heretofore been claimed by Paraguay as the proper boundary; the effect of this being to confirm to Brazil a territory one degree of latitude in width by two degrees of longitude in length, (more or less,) hitherto in dispute.

If the information I have received be correct, the claim of Brazil to this territory seems to have rested upon substantial grounds, and had been prejudiced, if at all, only by negligence to enforce it. By a treaty concluded in 1750 between Spain and Portugal, the river "Jesuy" was designated as the northern boundary of the Spanish possessions in the region between the Paraguay and Parana Rivers. By a later treaty (1777) between those powers, Spain acquired the territory northward of the Jesuy, to the river Apa, which was then constituted the boundary between the Spanish possessions, out of which Paraguay was formed, and those of Portugal, whence the title of Brazil is derived.

It is asserted by the latter that her title to the territory between the Apa and Blanco Rivers has never been impaired by any act expressly or impliedly indicating its relinquishment; that, on the contrary, it has been repeatedly asserted, but as the interests involved were comparatively unimportant, from the limited area of the territory in question, and her title deemed so clear, no active measures have been taken to enforce it, the question being adjourned from time to time, to be ad-

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justed when it could be done without violence. In other words, her right of sovereignty has never been relinquished, but its exercise, except in a nominal way, has been postponed for a peaceful solution of the question. The territory in question has been occupied only by a few uncivilized Indians, over whom neither government has exercised other than a nominal jurisdiction. Possibly a few Paraguayans have occupied its southern border, who recognized obligation to the government of Paraguay, or regarded themselves as under its protection. It is not known that the claim of that country had any other or better foundation than this fact.

If these statements are true, and I have not been able to find any reliable evidence contravening them, it does not appear that in requiring of Paraguay a recognition of her claim to this territory, Brazil has demanded the sacrifice of any part of the domain to which the former had an undisputed or equitable claim, and even if the title of Brazil had been questionable, the extent and value of the territory are too insignificant to warrant the opinion that the war against Lopez on her part was initiated or prosecuted for its acquisition. On the contrary, as it is asserted, the war was begun by Lopez, and conducted by him in a spirit of vindictive aggression upon his neighbors, and a merciless disregard of the lives of his own people, so long as power remained to gratify his brutal instincts.

It is understood that the cost of the war to Brazil alone was not less than $600,000,000, and that this sum, or one approximating it, is claimed of Paraguay by way of indemnity. Of the correctness of the amount I cannot, however, speak with certainty, but if indemnity be demanded approximating the cost of the war, it must reach a sum far beyond the ability of Paraguay to pay for generations to come.

Prior to the war between the allied powers and Paraguay a question had existed between that republic and the Argentine Confederation, relative to the title to that part of the "Grand Chaco"—a country lying west of the Paraguay River—which lies south of the southern boundary of Bolivia.

This question, as well as those with Brazil, remained on the conclusion of peace to be settled in the future upon its merits, and unaffected by the events of the war. It is still pending, the Argentine government claiming the whole of the territory up to the Bolivian line, while the government of Paraguay, although claiming the river Bermijo as the true boundary, are willing, as it is stated, to yield any claim to that region up to the Pilcomayo River, but no more.

The modern maps of that region, now accessible here, were made under the direction of the Argentine government, and exhibit a boundary dividing the Grand Chaco between Bolivia and the Argentine Confederation by a line drawn from a point on the Paraguay River at south latitude 22° 10′ due west to a point where this line intersects the Bermejo.

A work lately published here by Señor Emilio Castro Boedo, ("Estudios sobre la navegacion del Bermejo, y colonizacion del Chaco,") states that the Grand Chaco has been divided between Bolivia and the Argentine Republic, by the line above mentioned, but omits to state the grounds upon which their respective titles are founded. It is understood, however, that this whole region having been included within the jurisdiction of the Spanish vice-royalty, upon the cessation of Spanish rule, legitimately fell within the control of the provinces which had achieved their independence, and that Paraguay, having failed to co-operate with

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them against Spain, had no equitable claim to territory west of the Paraguay River.

But the work above referred to furnishes facts showing that immediately after the planting of a colony at Asumpcion, or, as it is now called, Asuncion, by Juan de Ayolas, in 1536, that heroic adventurer explored the region in question, finally pushing his way across the continent in a northwesterly direction to Peru, and returning, reached the Paraguay River at south latitude 21°, where he proposed to found a colony, but was soon afterward, with his whole expeditionary force, killed by the Indians. He was followed in these explorations by Irala, Alvar, Nunez, Chaves, and others, who, during the ensuing fifty years, organized expeditions which departed from Paraguay. Consequent upon these was the establishment of various colonies, trading-posts, and missions, but nearly all of them have disappeared. A few points have remained in the occupancy of Paraguay, and beyond these there has practically been no actual possession of the region north of the Bermejo for the last hundred years by any government, very little, if anything, more being known about it than in the sixteenth century. A large part is described, however, as being comparatively worthless, subject to periodical or continuous inundation.

Negotiations are now pending at Asuncion between General Bartolome Meitre, on the part of the Argentine Republic, and the government of Paraguay, for the settlement of the questions relative to this region, and I have learned, from a source entitled to credit, though unofficial, that the line of the Pilcomayo has been agreed upon by the representatives of the two governments, with the assent of the Brazilian minister at Asuncion; but it is not known whether the Argentine or the Brazilian government will ratify the agreement, the latter being understood as not looking with favor upon this acquisition by the former.

This would indicate that Brazil prefers that Paraguay should remain an independent state rather than be absorbed by another republic, and, from conversations with representatives of other South American republics, it would appear that this sentiment is general.

But while the independence of Paraguay may not be at present menaced, it is evident that such independence is nominal, rather than actual. The obligation imposed upon her people by recognition of the Brazilian indemnity is far beyond their ability to meet. It would be utterly impossible to pay the interest alone from the resources of the country for many years to come. It is doubtless well known to the Department that, at the close of the war, the people of Paraguay were left in a frightful condition. Famine, disease, and death stalked abroad; more than two-thirds of the entire population perished from starvation or exposure during the war.

There has been in modern times no parallel to the terrible disaster which overtook this people, and when it is considered that they are not themselves responsible for the calamity, but that it was brought upon them by the brutal tyranny of a despotic ruler, they seem entitled to the commiseration of all humane people, and especially to that of sister republics.

This dispatch has been written for the sole purpose of advising the Department of the present situation of Paraguay, and with no intent to advance opinions, or to make suggestions thereupon; but I hope it may not be improper to remark that there seems to exist an occasion when, if not inconsistent with international comity, the strongest of republics may interpose her good offices in behalf of the weakest and most unfortunate of her sisters.

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It is believed that the surest if not the only means of securing the independence of Paraguay, as well as her future prosperity and advancement in civilization, would consist in removing from her people the burden of her indemnity debt. It is said that Brazil does not contemplate the enforcement of its payment for an indefinite period. This would be quite in keeping with the character of His Majesty the Emperor, who is reputed to be a man of the noblest impulses, and it is doubtless apparent to him and his government that such enforcement would simply destroy Paraguay as a nation. If, therefore, payment is to be postponed indefinitely, there is presented to Brazil the opportunity of achieving a triumph far more glorious than those of successful war—the triumph of mercy and benevolence over the harsh demands of retributive justice—by remitting to Paraguay the payment of this indemnity, or by reducing its amount to a sum which would not be oppressive upon her industry.

May not the United States with propriety, in the name of humanity, and in the interests of civilization, appeal to Brazil to perform this noble deed?

I have, &c.,

JULIUS WHITE.

IV.—AUSTRIA-HUNGARY.

No. 13.

Mr. Jay to Mr. Fish.

No. 464.] AMERICAN LEGATION,
Vienna, September 3, 1872. (Received September 18.)

SIR: I herewith inclose the Official Gazette of this morning, containing, in an English and German version, the new treaty of friendship, commerce, and navigation between the Austro-Hungarian Empire and Japan, and the accompanying regulations under which the trade of the Austro-Hungarian monarchy is to be conducted in Japan.

I have, &c.,

JOHN JAY.

Treaty between Austria-Hungary and Japan.

[English version.]

His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary, on the one part, and His Majesty the Emperor of Japan, on the other part, being desirous to place the relations between the two Empires on a permanent and friendly footing, and to facilitate the commercial intercourse between their respective subjects, have resolved to enter into a treaty of friendship, commerce, and navigation, and have for that purpose appointed as their plenipotentiaries, that is to say, His Imperial and Royal Apostolic Majesty, the Rear-Admiral Baron Anthony Petz, minister plenipotentiary and envoy in extraordinary mission, Knight of the Military Order of Maria Theresa, &c., &c., &c.; His Majesty the Emperor of Japan, Sawa Kiyowara no Ason Nobuyoshi, principal minister for foreign affairs, invested with the second degree of the third rank, and Terashima Fujiwara no Ason Munenori, assistant minister for foreign affairs, invested with the second degree of the fourth rank, who, after having communicated to each other their respective full powers, and found them to be in due and proper form, have agreed upon the following articles:

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ART. 1. There shall be perpetual peace and friendship between the high contracting powers and their respective subjects.

ART. 2. His Imperial and Royal Apostolic Majesty shall have the right to appoint a diplomatic agent, a consul general, and for every port or town in Japan open to foreign trade a consul, vice consul, or consular agent. These officials shall have the same privileges and rights as those of the most favored nation.

The diplomatic agent appointed by His Imperial and Royal Apostolic Majesty, as well as the consul general, shall have the right to travel freely in any part of the Japanese Empire.

Likewise those imperial and royal consular officers who are intrusted with judicial powers shall have the right, whenever an Austro-Hungarian ship is wrecked, or an attack is made upon the life and property of an Austro-Hungarian citizen within the limits of their jurisdiction, to proceed to the spot in order to collect such evidence as may be necessary. But in every such case the imperial and royal consular officers shall inform the Japanese local authorities, in writing, of the object of their journey and the place to which they intend to proceed, and shall undertake this journey only in the company of a high Japanese officer, to be appointed by the Japanese authorities.

His Majesty the Emperor of Japan may appoint a diplomatic agent at the Court of Vienna and consular officers at any port or town of the Austro-Hungarian monarchy where consular officers of any other power are admitted to reside.

The diplomatic agent and the consular officers of Japan shall, under the condition of reciprocity, enjoy in the territory of the Austro-Hungarian Empire the same rights, privileges, and immunities which those of any other power now enjoy or may hereafter enjoy

ART. 3. The ports and towns of Yokohama, (in the district of Kanawaga,) Hiogo, Osaka, Nagasaki, Niigata, Ebisuminato, on the island of Sado, Hakodate, and the city of Tokei, (Yedo,) shall, from the day on which this treaty comes into operation, be opened to the citizens of the Austro-Hungarian monarchy and to their trade.

In the above ports and towns Austro-Hungarian citizens may permanently reside; they shall have the right therein to lease land, to purchase houses, and to erect dwellings and warehouses.

The place where Austro-Hungarian citizens shall reside, and where they shall erect their buildings, shall be determined on by the imperial and royal consular officers in conjunction with the competent local authorities. The harbor regulations shall be arranged in a similar manner.

If the imperial and royal consular officer and the Japanese authorities cannot agree, the matter shall be submitted to the diplomatic agent and the Japanese government.

No wall, fence, or gate shall be erected by the Japanese around the place where Austro-Hungarian citizens reside, and nothing shall be done there which may prevent free egress or ingress.

Austro-Hungarian citizens shall be free to go where they please within the following limits:

At Yokohama (in the district of Kanagawa) to the river Rokugo and ten *ri* in any other direction.

At Hiogo in the direction of Kioto as far as ten *ri* from that city, and ten *ri* in any other direction.

At Osaka, on the south, from the mouth of the Yamatogawa to Funabashimura, and from the latter place within the limits of a line drawn from there through Kiokojimura to Sada. The town of Sakai lies outside these limits, but Austro-Hungarian citizens shall be allowed to visit it.

At Nagasaki into any part of the Nagasaki district.

At Niigata and Hakodate ten *ri* in any direction.

At Ebisuminato throughout the whole island of Sado.

At Tokei (Yedo) within the following boundaries: From the mouth of the Shintonegawa to Kanamashi, and from there along the high-road to Mito as far as Senji; from there, along the river Sumida, as far as Furuyakamigo, and thence through Omuro, Takakura, Koyata, Ogiwara, Miyadera, Mitsugi, and Tanaka to the ferry of Hino on the river Rokugo.

The distances of ten *ri* shall be measured by land from the sahibansh, or town-hall, of each of the above-mentioned places. One *ri* is equal to 12,367 feet Austrian measure, 4,275 yards English measure, 3,910 meters French measure.

Austro-Hungarian citizens who transgress these limits shall be liable to a fine of one hundred Mexican dollars for the first offense, and for a second offense to a fine of two hundred and fifty Mexican dollars.

ART. 4. Austro-Hungarian citizens residing in Japan shall be allowed the free exercise of their religion, and for this purpose they shall have the right to erect within the limits of their settlement suitable places of worship.

ART. 5. All questions in regard to rights, whether of property or of person, arising between Austro-Hungarian citizens residing in Japan, shall be subject to the jurisdiction of the imperial and royal authorities. In like manner the Japanese authorities

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shall not interfere in any question which may arise between Austro-Hungarian citizens and the subjects of any other treaty power.

If an Austro-Hungarian citizen has a complaint or grievance against a Japanese subject, the case shall be decided by the Japanese authorities.

If, on the contrary, a Japanese has a complaint or grievance against a citizen of the said monarchy, the case shall be decided by the imperial and royal authorities.

Should any Japanese subject fail to discharge debts incurred to an Austro-Hungarian citizen, or should he fraudulently abscond, the competent Japanese authorities will do their utmost to bring him to justice and to enforce recovery of the debts. And should any Austro-Hungarian citizen fraudulently abscond, or fail to discharge debts incurred by him to a Japanese subject, the imperial and royal authorities will do their utmost to bring him to justice and to enforce recovery of the debts.

Neither the Austro-Hungarian nor the Japanese authorities shall be held responsible for the payment of any debts contracted by Austro-Hungarian or Japanese subjects.

ART. 6. Austro-Hungarian citizens who may commit any crime against Japanese subjects, or against the subjects of any other nation, shall be brought before the imperial and royal consular officer and punished according to the laws of their country.

Japanese subjects who may commit any crime against Austro-Hungarian citizens shall be brought before the Japanese authorities, and punished according to Japanese laws.

ART. 7. Any case involving a penalty or confiscation by reason of any breach of this treaty, the trade-regulations, or the tariff annexed thereto, shall be brought before the imperial and royal consular authorities for decision. Every penalty enforced or confiscation made by these authorities shall belong to and be appropriated by the Japanese government.

Goods which are seized shall be put under the seals of both the Japanese and the consular authorities, and shall be kept in the godowns of the custom-house until the imperial and royal consul shall have given his decision.

If this decision is in favor of the owner or consignee of the goods, they shall be immediately placed at the disposal of the consul; but should the Japanese government wish to appeal against the decision of the consul, the owner or consignee of the goods shall be bound to deposit their value at the imperial and royal consulate until the final decision has been pronounced.

Should the seized goods be of a perishable nature, they shall be handed over to the owner or consignee, even before the final decision be given, on his lodging the amount of their value at the imperial and royal consulate.

ART. 8. At each of the ports open or to be opened to trade, Austro-Hungarian citizens shall be at full liberty to import from their own or any other ports, and sell there and purchase therein, and export to their own or to any other ports, all manner of merchandise not contraband, paying the duties thereon as laid down in the tariff annexed to this treaty, and no other charges whatsoever.

In estimating *ad valorem* duties, if the custom-house officers are dissatisfied with the value placed by a merchant on any of his goods, they may themselves place a value thereon, and offer to take the goods at that valuation. If the owner refuses this offer, he shall pay the duty on the valuation which the Japanese custom-house officers have made. If, on the contrary, the owner accepts the offer, the custom-house valuation shall be paid to him without delay, and without any abatement or discount.

ART. 9. Austro-Hungarian citizens having imported merchandise into one of the open ports of Japan, and having paid the duty due thereon, shall be entitled to demand from the Japanese custom-house authorities a certificate, stating that such payment has been made, and shall be at liberty by virtue of this certificate to re-export the same merchandise and land it in any other of the open ports without the payment of any additional duty whatever.

ART. 10. The Japanese government engages to erect in all the open ports warehouses, in which imported goods may be stored on the application of the importer or owner without payment of duty.

The Japanese government will be responsible for the safe custody of these goods so long as they remain in their charge, and during such time will adopt all the precautions necessary to render the said goods insurable against fire. When the owner or importer wishes to remove the goods from the said warehouses, he must pay the duties fixed by the tariff annexed to this treaty; but if he should wish to re-export them, he may do so without payment of duty.

Storage charges must be paid, in any case, on delivery of the goods. The amount of these charges, as well as the regulations necessary for the management of the said warehouses, will be established by common consent of the high contracting parties.

ART. 11. Citizens of the Austro-Hungarian Empire shall be at liberty to ship all kinds of Japanese produce bought in one of the open ports in Japan to another open port in Japan without the payment of any duty.

When Japanese products are shipped by an Austro-Hungarian citizen from one of the open ports to another, the said citizen shall deposit at the custom-house the amount of

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duty which would have to be paid if the same goods were exported to foreign countries. This amount shall be returned by the Japanese authorities to the said citizen immediately, and without any objection on their part, upon the production within six months of a certificate from the custom-house authorities at the port of destination stating that the same goods have been landed there.

In the case of goods the export of which to foreign ports is absolutely prohibited, the shipper must deposit at the custom-house a written declaration, binding himself to pay to the Japanese authorities the full value of the said goods in case he should fail to produce the aforesaid certificate within the above-mentioned time.

Should a vessel bound from one of the open ports to another be lost on the voyage, proof of the loss shall take the place of the custom-house certificate, and a term of one year shall be allowed to the Austro-Hungarian citizen to furnish this proof.

ART. 12. All goods imported by citizens of the Austro-Hungarian monarchy into one of the open ports in Japan, on which the duties stipulated by the present treaty have been paid, may—whether they are in the possession of Austro-Hungarian citizens or of Japanese subjects—be transported by the owners into any part of the Japanese Empire without the payment of any tax or transit duty whatever.

All articles of Japanese production may be conveyed by Japanese subjects from any place in Japan to any of the open ports without being liable to any tax or transit duty, with the exception of such tolls as are levied equally on all traders for the maintenance of roads or navigation.

ART. 13. Austro-Hungarian citizens shall be at liberty to buy from Japanese and sell to them all articles, without the intervention of any Japanese officer, either in such purchase or sale or in making or receiving payment for the same.

All Japanese shall be at liberty to buy any articles from Austro-Hungarian citizens, either within the limits of the Austro-Hungarian Empire or in the open ports of Japan, without the intervention of any Japanese officer; and they may either keep and use the articles, which they have thus bought, or resell them. In their commercial transactions with Austro-Hungarian citizens the Japanese shall not be subject to higher taxation than that usually paid by them in their transactions with each other.

Likewise all Japanese subjects may, on condition of observing the laws, visit the Austro-Hungarian Empire as well as the open ports of Japan, and there transact business with citizens of the said Empire freely and without the intervention of Japanese officers; provided, always, they submit to the existing police regulations and pay the established duties.

All Japanese subjects may ship goods of Japanese or foreign origin to, from, or between the open ports in Japan, or from or to foreign ports, either in vessels owned by Japanese or by citizens of the Austro-Hungarian monarchy.

ART. 14. The regulations of trade and the tariff annexed to this treaty shall be considered as forming a part of the treaty, and therefore as binding on the high contracting parties.

The diplomatic agent of the Austro-Hungarian monarchy in Japan, in conjunction and by mutual agreement with such officers as the Japanese government may designate for this purpose, shall have power to make for all ports open to trade such rules as are necessary to carry out the provisions of the annexed regulations of trade.

The Japanese authorities will adopt at each port such measures as they may judge most proper to prevent fraud and smuggling.

ART. 15. The Japanese government will not prevent citizens of the Austro-Hungarian monarchy residing in Japan from taking Japanese into their service as interpreters, teachers, servants, &c., or from employing them in any way not forbidden by law; provided, always, that in case such Japanese shall commit a crime, he shall be subject to Japanese law.

Japanese shall also be at liberty to take service in any capacity on board of ships belonging to the Austro-Hungarian monarchy.

Japanese in the service of Austro-Hungarian citizens shall, on application to the local authorities, obtain permission to accompany their employers abroad.

Furthermore, all Japanese, on being provided with regular passports from their authorities, according to the proclamation of the Japanese government, dated the 23d of May, 1866, may travel to the Austro-Hungarian Empire for purposes of study or trade.

ART. 16. The Japanese government engage to improve immediately the manufacture of Japanese coin. The Japanese principal mint, as well as the special offices to be organized at all the open ports, will then receive from foreigners and Japanese, without distinction of rank, foreign coins of all kinds as well as silver and gold bullion, and will exchange the same for Japanese coin of the same intrinsic value, deducting a certain charge for coinage, the amount of which will be fixed by consent of the high contracting powers.

Citizens of the Austro-Hungarian monarchy and Japanese subjects may freely use foreign or Japanese coin in making payments to each other.

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Coins of all description, (with the exception of Japanese copper coin,) as well as foreign bullion in gold and silver, may be exported from Japan.

ART. 17. The Japanese government will provide all ports open to the trade of Austro-Hungarian citizens with such light-houses, lights, buoys, and beacons as may be necessary to facilitate and render secure the navigation of the approaches to the said ports.

ART. 18. If any vessel of the Austro-Hungarian monarchy be wrecked or stranded on the coasts of Japan, or be compelled to take refuge in any Japanese port, the competent Japanese authorities, on being apprised of the fact, shall immediately render to the vessel all the assistance in their power. The persons on board shall receive friendly treatment and be furnished, if necessary, with the means of conveyance to the nearest Austro-Hungarian consular station.

ART. 19. Supplies of all kinds for the use of the Austro-Hungarian navy may be landed at the open ports of Japan, and stored in warehouses in the custody of Austro-Hungarian officers, without the payment of any duty. But if any such supplies are sold to foreigners or Japanese, the purchasers shall pay the proper duty to the Japanese authorities.

ART. 20. It is hereby expressly stipulated, that the Austro-Hungarian government, and the citizens of the Austro-Hungarian monarchy, shall, from the day on which this treaty comes into operation, participate in all privileges, immunities, and advantages which have been granted or may be hereafter granted by His Majesty the Emperor of Japan to the government or subjects of any other nation.

ART. 21. It is agreed that either of the high contracting parties may demand a revision of this treaty, of the trade regulations and the tariff annexed thereto, on and after the 1st of July, 1872, with a view to the insertion therein of such modifications or amendments as experience shall prove to be expedient. It is necessary, however, that one year's notice must be given before such revision can be claimed.

In case, however, His Majesty the Emperor of Japan should desire the revision of all the treaties before the above-mentioned date, and obtain thereto the consent of all the other treaty powers, the Austro-Hungarian government will also join, at the request of the Japanese government, in the negotiations relating to the same.

ART. 22. All official communications addressed by the imperial and royal diplomatic agent or consular officers to the Japanese authorities shall be written in the German language.

In order, however, to facilitate the transaction of business, these communications will, for a period of three years from the date on which this treaty comes into operation, be accompanied by an English or Japanese translation.

ART. 23. The present treaty is written in seven copies, viz: two in the Japanese, three in the English, and two in the German language. All these versions have the same meaning and intention, but in case of dispute the English text shall be considered as the original one.

ART. 24. The present treaty shall be ratified by His Majesty the Emperor of Austria and Apostolic King of Hungary and His Majesty the Emperor of Japan under their hands and seals, and the ratifications shall be exchanged within twelve months from this date, or sooner if possible.

It is also agreed, that this treaty shall come into operation from the present date.

In token whereof the respective plenipotentiaries have signed and sealed this treaty.

Done at Tokei (Yedo) this eighteenth day of October, in the year of our Lord one thousand eight hundred and sixty-nine, or the fourteenth day of the ninth month of the second year of Meiji according to Japanese reckoning.

SAWA KIYOWARA NO ASON NOBUYOSHI,
TERASHIMA FUJIWARA NO ASON MUNENORI.
BARON VON PETZ, *Rear-Admiral.*

Regulations under which the trade of the Austro-Hungarian monarchy is to be conducted in Japan.

REGULATION I.

Within forty-eight hours (Sunday excepted) after the arrival of an Austro-Hungarian ship in Japanese port, the captain or commander shall exhibit to the Japanese custom-house authorities the receipt of the imperial and royal consul, showing that he has deposited all the ship's papers, the ship's bills of lading, &c., at the imperial and royal consulate, and he shall then make an entry of his ship, by giving a written paper stating the name of the ship, and the name of the port from which she comes, her tonnage, the name of her captain or commander, the names of her passengers (if any) and the number of her crew, which paper shall be certified by the captain or commander

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to be a true statement and shall be signed by him. He shall at the same time deposit a written manifest of his cargo, setting forth the marks and numbers of the packages and their contents, as they are described in his bills of lading, with the names of the person or persons to whom they are consigned. A list of the stores of the ship shall be added to the manifest.

The captain or commander shall certify the manifest to be a true account of all the cargo and stores on board the ship, and shall sign his name to the same. If any error is discovered in the manifest, it may be corrected within twenty-four hours (Sunday excepted) without the payment of any fees, but for any alteration or post-entry to the manifest, made after that time, a fee of $15 shall be paid.

All goods not entered on the manifest shall, besides the duty, pay a fine equal in amount to that duty.

Any captain or commander who shall neglect to enter his vessel at the Japanese custom-house within the time prescribed by this regulation shall pay a penalty of $50 for each day that he shall so neglect to enter his ship.

Regulation II.

The Japanese government shall have the right to place custom-house officers on board of any ship in their ports, (men-of-war excepted.) The custom-house officers shall be treated with civility, and such reasonable accommodation as the ship affords shall be allotted to them.

No goods shall be unladen from any ship between sunset and sunrise except by special permission of the custom-house authorities, and the hatches and all other places of entrance into that part of the ship where the cargo is stowed may be secured by Japanese officers between sunset and sunrise by fixing seals, locks, or other fastenings; and if any person shall, without due permission, open any entrance so secured, or break open or take off any seal, lock, or other fastening that has been affixed by the Japanese custom-house officers, every person so offending shall pay a fine of sixty dollars for each offense.

Goods that shall be discharged or attempted to be discharged from any ship without having been duly entered at the Japanese custom-house as hereinafter provided, shall be liable to seizure and confiscation.

Packages of goods made up with an intent to defraud the revenue of Japan, by concealing therein articles of value which are not set forth in the invoice, shall be forfeited.

If any Austro-Hungarian ship shall smuggle or attempt to smuggle goods at any of the non-opened harbors of Japan, all such goods shall be forfeited to the Japanese government, and the ship shall pay a fine of one thousand dollars for each offense of this kind.

Vessels needing repairs may land their cargo for that purpose without the payment of duty. All goods so landed shall remain in charge of the Japanese authorities, and all just charges for storage, labor, and supervision shall be paid thereon. But if any portion of such cargo be sold, the regular duties shall be paid on the portion so disposed of.

Cargo may be transshipped to another vessel in the same harbor without payment of duty, but all transshipment shall be made under the supervision of Japanese officers, and after satisfactory proof has been given to the custom-house authorities of the *bona fide* nature of the transaction, and also under a permit to be granted for that purpose by such authorities. A fine of sixty dollars shall be paid for any infraction of this rule.

The importation of opium being prohibited, any Austro-Hungarian vessel coming to Japan for the purpose of trade, and having more than three catties' weight of opium on board, the surplus quantity may be seized and destroyed by the Japanese authorities; and any person or persons smuggling or attempting to smuggle opium, shall be liable to pay a fine of fifteen dollars for each catty of opium so smuggled or attempted to be smuggled.

Regulation III.

The owner or consignee of any goods who desires to land them, shall make an entry of the same at the Japanese custom-house. The entry shall be in writing, and shall set forth the name of the person making the entry and the name of the ship in which the goods were imported, and the marks, numbers, packages, and the contents thereof, with the value of each package extended separately in one amount; and at the bottom of the entry shall be placed the aggregate value of all the goods contained in the entry. On each entry the owner or consignee shall certify, in writing, that the entry then presented exhibits the actual cost of the goods and that nothing has been concealed whereby the customs of Japan would be defrauded, and the owner or consignee shall sign his name to such certificate.

The original invoice or invoices of the goods, so entered, shall be presented to the

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custom-house authorities, and shall remain in their possession until they have examined the goods contained in the entry.

The Japanese officers may examine any or all the packages so entered, and for this purpose may take them to the custom-house; but this examination must be made without expense to the importer or injury to the goods; and after examination the Japanese shall restore the goods to their original condition in the packages, (so far as may be practicable,) and such examination shall be made without any unreasonable delay.

If any owner or importer discovers that his goods have been damaged on the voyage of importation before having been delivered to him, he may notify such damage to the custom-house officers, and he may have the damaged goods appraised by two or more competent and disinterested persons, who, after due examination, shall deliver a certificate setting forth the amount per cent. of damage on each separate package, describing it by its mark and number. This certificate shall be signed by the appraisers in presence of the custom-house authorities. The importer may attach it to his entry and make a corresponding deduction from it.

But this shall not prevent the custom-house authorities from appraising the goods in the manner provided in the Article VIII of the treaty to which these regulations are appended.

After the duties have been paid the owner shall receive a permit authorizing the delivery to him of the goods, whether the same are at the custom-house or on ship-board.

All goods intended to be exported shall be entered at the Japanese custom-house before they are placed on ship-board. The entry shall be in writing and shall state the name of the ship by which the goods are to be exported, with the marks and numbers of the packages and the quantity, description, and value of their contents. The exporter shall certify, in writing, that the entry is a true account of all goods contained therein, and shall sign his name thereto.

Any goods which are put on board a ship for exportation before they have been entered at the custom-house, and all packages which contain prohibited articles, shall be forfeited to the Japanese government.

No entry at the custom-house shall be required for supplies for the use of the ships, their crews and passengers, nor for the clothing, &c., of passengers.

The Japanese custom-house officers may seize any suspected package, but on doing so, they must give notice to the imperial and royal consular officer.

Goods which are confiscated by the decision of the imperial and royal consular officers shall at once be delivered to the Japanese authorities, and all fines or forfeitures decreed by the imperial and royal consular officers shall be levied by them without delay and paid over to the Japanese authorities.

REGULATION IV.

Ships wishing to clear, shall give twenty-four hours' notice at the custom-house, and at the end of that time they shall be entitled to their clearance. But if it be refused, the custom-house authorities shall immediately inform the captain or consignee of the ship of the reason why the clearance is refused, and they shall also give the same notice to the imperial and royal consul, who will not deliver to the captain the deposited ship-papers until he produces a receipt from the custom-house stating that all duties have been paid.

Imperial and royal men-of-war shall not be required to enter or clear at the custom-house, nor shall they be visited by Japanese custom-house or police officers.

Steamers conveying the mails of the Austro-Hungarian monarchy may enter and clear on the same day, and they shall not be required to make a manifest, except for such passengers and goods as are to be landed in Japan. But such steamers shall in all cases enter and clear at the custom-house.

Whaleships touching for supplies, or ships in distress, shall not be required to make a manifest of their cargo; but if they subsequently wish to trade, they shall then deposit a manifest as required in Regulation I.

The word "ships," wherever it occurs in these regulations, or in the treaty to which they are annexed, is to be held as meaning a vessel, bark, brig, schooner, sloop, or steamer.

REGULATION V.

Any person signing a false declaration or certificate, with the intent to defraud the revenue of Japan, shall pay a fine of one hundred and twenty-five (125) dollars for each offense.

REGULATION VI.

No tonnage-dues shall be levied on Austro-Hungarian ships in ports of Japan, but the following fees shall be paid to the Japanese custom-house authorities:

For the entry of a ship, fifteen dollars.

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For the clearance of a ship, seven dollars.

For the permit to land or ship goods, wherever they may be mentioned in these egulations, no fee has to be paid.

For every other document, as bills of health, &c., one dollar and a half.

Regulation VII.

Duties shall be paid to the Japanese government on all goods landed in Japan, and on all Japanese goods, intended for exportation, according to the tariff annexed to this treaty.

Regulation VIII.

Any Japanese subject shall be free to purchase, either in the open ports or abroad, every description of sailing-vessels or steamers, intended to carry either cargo or passengers, with the exception of ships of war, which may only be purchased under the authorization of the Japanese government.

All Austro-Hungarian ships purchased by Japanese subjects shall be registered as Japanese ships on payment of a duty of three boos per ton for steamers and one boo per ton for sailing-vessels.

The tonnage of each vessel shall be proved by the Austro-Hungarian register of the ship, which shall be certified as authentic by the imperial and royal consular officer, and exhibited by him to the Japanese authorities on their demand.

Ammunition of war can only be sold to the Japanese government and to foreigners.

Regulation IX.

Austro-Hungarian citizens residing in Japan, and the crews and passengers of ships belonging to the said monarchy, shall be free to purchase for their own consumption supplies of those kinds of grain and flour the export of which is prohibited by the tariff; but the usual permit must be obtained from the custom-house before any of the aforesaid kinds of grain or flour can be shipped on board of an Austro-Hungarian vessel.

The Japanese government will offer no difficulty to the transport from one open port to another of those kinds of Japanese grain and flour the export of which to foreign ports is prohibited. Should, however, particular circumstances make it desirable that the transport of these articles from any one of the open ports should for a certain time be prohibited both to Japanese and foreigners, the Japanese government will give two months' notice of such prohibition to the foreign authorities, and will further undertake that the said prohibition shall not remain longer in force than is absolutely necessary.

Regulation X.

The catty, mentioned in the tariff, is equal to 604 grammes 53 centigrammes, or 1⅓ pounds English avoirdupois, or 1.08 pound Austrian weight.

The yard is a measure of three English feet, equal to 914 millimeters.

The English foot is equal to 0.3047 metres and is one-eighth of an inch longer than the Japanese kaneshaku.

The koku is equal to ten cubic feet English measure, or to one hundred and twenty feet of American timber measure of one inch in thickness.

The boo or itziboo is a silver coin weighing not less than 8.67 grammes, (134 grains troy weight,) and containing nine parts of pure silver and one part of alloy.

The cent is the one-hundredth part of the boo.

Regulation XI.

In order to put a stop to the abuses and inconveniences at the open ports, relative to the transaction of business at the custom-house, the landing and shipping of goods, and the hiring of boats, coolies, servants, &c., the high contracting parties have agreed, that at each port the local authorities shall, from time to time, enter into negotiations with the foreign consuls, with a view to the establishment by mutual consent of such measures as shall effectually put an end to any complaints, and shall afford all desirable facility and security both to the operation of trade and to private transactions between foreigners and Japanese.

The Japanese government will construct, at the landing-places of each of the open ports, one or more landing-sheds for the use of Austro-Hungarian citizens when landing or shipping cargo.

SAWA KIYOWARA NO ASON NOBUYOSHI.
TERASHIMA FUJIWARA NO ASON MUNENORI.
BARON V. PETZ, *Rear-Admiral.*

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TARIFF.

A. Import.—Class I.—Specific duties.

No.	Articles.	Per—	Boos. Ce
1	Alum	100 catties	
2	Betel-nut	do	
3	Brass buttons	Gross	
4	Candles	100 catties	2
5	Canvas and cotton duck	10 yards	
6	Cigars	Catty	
7	Cloves and mother-cloves	100 catties	1
8	Cochineal	do	21
9	Cordage	do	1
10	Cotton, raw	do	1
	Cotton manufactures:		
11	Shirtings, gray, white, and twilled, white, spotted, or figured drills and jeans, white brocades, veloth, cambrics, muslins, lawns, dimities, quiltings, cottonets; all the above goods dyed printed cottons, chintzes, and furniture:		
	a. Not exceeding 34 inches wide	10 yards	
	b. Not exceeding 40 inches wide	do	
	c. Not exceeding 46 inches wide	do	
	d. Exceeding 46 inches wide	do	
12	Taffachelass, not exceeding 31 inches	do	
	Taffchelass, exceeding 31 inches and not exceeding 43 inches	do	
13	Fustians, as cotton velveta, velveteens, satins, sattinets, and cotton damask, not exceeding 40 inches	do	
14	Ginghams, not exceeding 31 inches	do	
	Ginghams, not exceeding 43 inches	do	
15	Handkerchiefs	Dozen	
16	Singlets and drawers	do	
17	Table-cloths	Each	
18	Cotton-thread, plain or dyed, in reel or ball	100 catties	7
19	Cotton-yarn, plain or dyed	do	5
20	Cutch	do	
21	Feathers, (kingfisher, peacock, &c)	100 in number	1
22	Flints	100 catties	
23	Gambier	do	
24	Gamboge	do	3
25	Glass, window	Box of 100 sq. feet.	
26	Glue	100 catties	
27	Gum Benjamin and oil of do	do	2
28	Gum dragon's-blood, myrrh, olibanum	do	1
29	Gypsum	do	
30	Hides, buffalo and cow	do	1
31	Horns, buffalo and deer	do	1
32	Horns, rhinoceros	do	1
33	Hoofs	do	
34	Indigo, liquid	do	
35	Indigo, dry	do	
36	Ivory, elephant's teeth, all qualities	do	1
37	Paint, as red, white, and yellow lead, (minium, ceruse, and massicot,) and paint-oils	do	
38	Leather	do	
39	Linen, all qualities	10 yards	
40	Mangrove-bark	100 catties	
41	Matting, floor	Roll of 40 yds	
	Metals:		
42	Copper and brass in staabs, sheets, rods, nails	100 catties	
43	Yellow-metal, Muntz's metal, sheeting, and nails	do	
44	Iron, manufactured, as in rods, bars, nails	do	
45	Iron, manufactured in pigs	do	
46	Iron, manufactured in kendledge	do	
47	Iron, manufactured in wire	do	
48	Lead, pigs	do	
49	Lead, sheet	do	
50	Spelter and zinc	do	
51	Steel	do	
52	Tin	do	
53	Tin plates	Box of not ex. 90 catties.	

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No. 14.

Mr. Delaplaine to Mr. Fish.

No. 474.] AMERICAN LEGATION,
Vienna, October 11, 1872. (Received October 31.)

SIR: I had the honor to transmit to you, on the 26th September, a copy of the Austrian Red Book, which I had received from the foreign office, and at the same time, at the instance of Baron de Gagern, I called your attention to a portion of the correspondence therein contained.

The same has since appeared to me of such interest and importance as may render desirable a more distinct reference to it, and therefore a translation, which I hereby append, may possibly prove acceptable.

I have, &c.,

I. F. DELAPLAINE.

[Inclosure.—Translation.]

No. 63.

Count Beust to Count Wolkenstein, in London.

SALTZBURG, *September* 8, 1871.

The message in which the English Parliament was prorogued, on the 21st August last, contains the paragraph, that the royal government of Great Britain had agreed with that of the United States of America in regard to the adoption of certain rules as to the treatment of neutrals on the high seas, "in respect to which rules the presumption was announced that they would, at no remote time, receive universal acknowledgment and form a valuable addition to the international code."

Inasmuch as the Imperial Royal ministry of commerce has expressed the wish to obtain fuller information on this subject, I accordingly request you, as early as possible, to comply with this desire and to report thereon.

Accept, &c.

No. 64.

Count Wolkenstein to Count Beust.

LONDON, *December* 16, 1871

I have to-day conversed with Mr. Hammond, the under secretary of state, now intrusted with the charge of the foreign office, in regard to the contents of your dispatch dated Saltzburg, 8th September, 1871, upon the adoption by the English government and that of the United States of certain rules as to the treatment of neutrals on the high seas. He immediately replied to me that the paragraph in question, contained in the message of Queen Victoria to the Parliament, of the 18th August, referred to Article VI of the treaty of Washington of the 8th May, 1871, and that both the said governments, in view of the concluding phrase of the said article, ("and the high contracting powers agree to observe these rules as between themselves in future, and to bring them to the knowledge of the other maritime powers and to invite them to accede to them,") would shortly transmit the requisite official communication to the other powers.

Mr. Hammond also remarked that he was unable to anticipate the official action of the governments, and accordingly could not give me further information on this subject.

Be pleased, &c.

No. 65.

Count Andrassy to Count Beust.

VIENNA, *December* 10, 1871.

In pursuance of a dispatch from this ministry of the 8th of September last, for obtaining fuller information in regard to the adoption of certain rules as to the treat-

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ment of neutrals on the high seas, which had been agreed upon between the royal government of Great Britain and that of the United States of America, it was announced in the dispatch from your embassy, of the 16th of December, in a preliminary manner, that the said two governments would in a short time transmit to the other powers the requisite official communication on this subject.

Inasmuch as up to this time no official communication has reached me, and both ministries of commerce have repeatedly addressed the request that they may receive fuller information on the subject, your excellency will please confidentially address the inquiry to the ministry of foreign affairs in London, whether in fact the official communication in question may still be expected from Great Britain.

Accept, &c.

No. 66.

Count Beust to Count Andrassy.

LONDON, *March* 6, 1872.

In dispatch of 10th December last, your excellency charged me to address the inquiry to the foreign office here, whether and when the proposed ratification of the fundamental principles agreed upon in the treaty of Washington was to be expected, and I had in pursuance thereof the honor to report, on the 22d of the same month, how Lord Granville had answered this inquiry to the effect that both the government of Great Britain as well as that of the United States intended to transmit such communication to the other powers; that, however, a difference of opinion in regard to some matters of detail had occurred, before the solution of which a united communication could not follow.

Since that time that difference had become developed and increased to such a degree that the notification, which depended upon such solution, appears postponed to a distant period.

Inasmuch as in the mean time the acrimony of the situation, and the notorious necessity on both sides of a solution, might in spite of all difficulties produce the latter sooner than at this moment seems probable, therefore it might not be superfluous to entertain the question, whether the powers to whom the said communication is intended to be made, and from which, directly or indirectly, a demand of their concurrence will be sought, should have reason to hold an approving, if not perhaps rather a dissenting, attitude.

Notwithstanding the comprehensive parlance which the organs of public opinion have hitherto devoted to the Alabama affair, still is this side of the question now referred to and interesting ourselves left almost entirely disregarded, namely, the general operation of the Washington treaty in the first—then, in the eventual further development of the affair, of the decision of the Geneva tribunal—in the second place, upon the international position of the neutrals toward belligerent powers.

England has agreed (Article VI of the treaty of 8th May, 1871) to acknowledge three of the rules proposed by the Government of the United States, the immediate object of which is to specifically define the duties of the neutral power during the naval war. The importance and extensive bearing of these rules are clearly manifest.

On the other side, the British government, with the admission of the application of the stipulated rules of law to the case of the Alabama, has joined in the express protest against the position stated therein, "that these rules were internationally operative at the time of the origin of the Alabama claims." Both powers have further agreed, that in the decision of the disputed question the international principles that have hitherto been in force may be employed only so far as they do not derogate from the three new rules. Finally, England and America have agreed to consider the newly-settled fundamental principles of law, not only as binding upon themselves in future, but have agreed to bring them to the knowledge of the other naval powers with the formal invitation to adopt them. These movements, when they confirm on one side the importance of the new rules of law, present also the proof that the treaty-contracting powers acknowledge in them a completely new principle of law.

Next to the prominent chief significance of this present novelty in maritime law, also its practical extent and capability of further expansion deserve to be well considered. In this view the history of the Washington treaty offers a very instructive illustration. And even in the case that the Geneva arbitration tribunal should not reach the desired aim, the theoretical and practical significance of the Washington neutrality rules, viewed from a general international stand-point, ought not to be under-estimated.

The latter are manifestly in favor of the belligerent powers. In the same degree as they narrow this sphere of rights belonging to neutrals towards the belligerents, they extend that of the contending parties as against those who stand aside from the con

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test. Further, the newly-imposed duties are so much the more oppressive, inasmuch as the responsibility and obligation to indemnity, arising from their non-performance by the neutrals, may be regarded as becoming extensive and comprehensive in the highest degree possible.

In the interest of the powers there exists undeniably the increasing, if not universal, acknowledgment of the principle that forms the actual foundation of a correct position of neutrals, namely, the free and untrammeled activity to be exercised by the state individualy, especially in the direction of unlimited protection of its own commercial interests. The fact of a war, originating quite independently of the will of a neutral state, between two other powers, should impose upon the first the least possible limitation of its national rights, as well as the least possible measure of duties, in regard to the condition of war created without its own instrumentality. This tendency is in harmony with the opinion existing largely, if not wholly, in all civilized countries, and recently practical attempts to fairly comply with the same have not been wanting. Everybody remembers the efforts made at the Paris Peace Congress to protect the rights of neutrals against the unjust violence of belligerent maritime powers. Let me be permitted to point to an appropriate example in the history of recent time. This is the dispute between the foreign office and the North German embassador in London, in regard to the privileges of the neutral commerce, during the war of 1870 and 1871. In this case it was the English minister who successfully opposed the attempt to inflict upon the duties of neutrality a construction limiting neutral commerce. Now, however, appear the neutrality rules of the Washington treaty, and still more the material tendency of this latter to be directed toward producing limitation and excessive responsibility on the part of neutrals; also, they are in full contradiction to the most recent development of international law; wherefore a universal acknowledgment appears that the leading ideas founded in the Washington treaty may be considered not only as an obstacle to the suitable, natural, further development of maritime law, but even as contributing to retrograde movement therein. The want of confidence against such a reform of maritime law can only be confirmed through the fact that the Americans are willing immediately, by the first practical application of the new rules of law, to draw thence the consequences in as comprehensive a degree as possible. In justification of the new formula of the duties of neutrality, certainly various arguments may be brought forward; for example, the clearer the rules upon neutrality duties may be, so much the fewer will be the points of controversy, so much less occasion for dispute. The more regulated the conduct to be observed by neutrals, so much the easier is it for the government in question to hold their citizens to a close observation of neutrality duties. The more precisely these duties are defined, so much more successful will be the defense against any accusation brought by one or the other of the belligerent parties, of favoring the other belligerent party, &c., &c., &c. These and similar arguments do not, however, meet the actual marrow of the question. The close limitation of the circle of the rights and duties of neutrals possesses, certainly, a great formal value for promoting a long duration of friendly international relations, but it appears important that this should not take place in such a manner as would increase to an intolerable degree the responsibility of neutrals, and almost wholly forbid proper commercial communication with belligerent states. Should the dangerous ground of a minute limitation of neutrality duties be once trodden, there would, in consequence of the national tendency of each close definition of rights, constantly new points for a further limitation of neutrals be found in the experience of every new war. One point of view should always, therefore, be held firmly: the endeavor to decisively dissent from every transformation of international principles which does not exist in the natural development of international right.

The powers would have the more reason for taking into serious consideration the theories upon neutrality accepted by England and America, and intended for adoption by all maritime powers, inasmuch as the penalty sanction, which the Government of the United States, at least according to the theory, wishes to incorporate into the new law, is certainly a monstrous one.

With logical conclusion, one would reach the result, that a neutral upon whom a hostile intention can in no manner be proved, but who shall not everywhere comply with its neutrality duties with necessary zeal, will be made responsible for the sum of war expenses, which may appear to have been occasioned, in a direct or indirect way, by its violation of neutrality.

England and America have indeed not yet, up to the present time, in an official manner, unreasonably requested the other maritime powers to adopt their neutrality theory. They have simply continued in the announcement of such an unreasonable request. Should they carry out this project, the fact that two of the most powerful powers have formally acknowledged the new rules of law, and have made it the foundation of a most important international transaction, is to-day a matter of history, and forms a source of possible prejudice, which, under certain circumstances, deserves fullest consideration.

The "Second Rule" of Article VI appears to be entitled to special attention, in so far

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as the same clearly gives an advantage to England, on account of her numerous naval stations, over other countries which have not at their disposal similar convenience, and therefore, in consequence of the facility afforded by the said stations for taking in coal and repairing vessels, such nations would suffer great disadvantage. I know that in some states, which might suffer possibly more than Austria-Hungary on this account, already much anxiety has been occasioned in regard to the subject.

When the Imperial and Royal government shall, at the proper time, come to an understanding with other governments, namely, with those of Germany and Italy, then would an equal degree of preference be obtained.

Already the governments of Austria, Prussia, and Italy, by their concurrent declarations at the opening of the war in 1866, observed the procedure of a conduct most liberal and conducive to commerce, inasmuch as at the beginning of the German-French war we remained faithful to corresponding principles, and without hesitation pronounced for their observance. This met with a favorable reception in Germany. A possible ratification of the fundamental principles agreed upon between England and America will therefore, consequently, become not only a subject of adoption or rejection, but a point of departure for entirely new negotiation, in case we wish to render valid and effectual the fundamental principles of full freedom and full protection of private property in case of war, with the exception, however, of contraband of war. America was formerly not opposed to this fundamental principle, but was willing, as is well known, in return for its acknowledgment on the part of England, to consent to the abolition of privateering; whereas England, however, viewed in its introduction the loss of one of her most powerful weapons. Therefore, other countries must consider at what price they are willing to submit to limitation of their former freedom.

Accept, &c., &c., &c.

No. 67.

Count Beust to Count Andrassy.

LONDON, *May* 10, 1872.

In continuation of my respectful dispatch of the 6th March last, I will not omit to bring to the knowledge of your excellency, that, as Lord Granville communicated to me, Prince Bismarck has expressed himself in sentiments the very opposite of approval in regard to the announced communication of the agreement contained in the Washington treaty; and he has thereby adopted the view that the fundamental principles agreed upon in regard to the equipment of ships should also be extended to the carriage of arms. This is a request which Lord Granville declares to be impossible to comply with, in consideration of the difficulties which would accompany the requisite supervision over such.

Although I have not yet received any instruction in pursuance of my dispatch, still I believed that I was authorized on this occasion to express the sense of the concluding sentences, which, however, appeared in no way to surprise Lord Granville. The only remarks followed, that our demand for the freedom and scurity of private property on the sea would become a condition, also, for similar favors for private property on land, which, in late wars, did not enjoy a corresponding protection. I did not wish to answer with a reference to the fact that in this respect no reproach rested upon ourselves, inasmuch as circumstances had caused that we did not come into a position of resisting such temptation; however, I did not allow the difference to pass unremarked, consisting in the fact that with the exception of when, under justifiable occurrences, private property for satisfying the necessities of war, and, accordingly under circumstances compelling the same, is seldom seized, whilst the levy upon private property at sea admits no similar justification, but is partially the design, not the means of carrying on war.

Accept, &c., &c., &c.

No. 15.

Mr. Jay to Mr. Fish.

No. 561.] AMERICAN LEGATION,
Vienna, March 12, 1873. (Received March 27.)

SIR: Yesterday afternoon Mr. Delaplaine went to the bureau of the exposition to see the Baron Schwarz-Senborn in regard to the pre

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gramme of the international congress and the concessions to our Department of a part of the South American transept. Mr. Delaplaine reported to me in the evening, bringing a proof-copy of the programme, and stating that the baron thought it doubtful if we could have much of the South American space, from Brazil claiming a much larger share than she at first asked.

The baron told Mr. Delaplaine that he was annoyed at an application from one Hitzel, who had brought a letter from General Van Buren and a permit for a restaurant; that he did not wish to do anything to displease General Van Buren, but that they had enough restaurants already, and that this would, as he believed, not be an American but a German one, and one of the partners being from Nuremberg. The baron asked for my advice as to what he should do, and begged that I would give it immediately.

Unprepared to meddle in the matter, I sent you, through Stevens, the following: "Fish, Secretary, Washington: Schwarz asks advice. Hitzel, with restaurant-permit, demands place. Schwarz, reluctant, says enough already, and this would be German, not American. What answer? Eleventh, evening. Jay."

Mr. James, who was here this morning, tells me that he was mistaken in stating to me that there was to be only one French restaurant. There are to be two by first-class Parisian houses.

James showed me the proposed contract for roofing the court, and it will probably be signed to-morrow, the contractors being recommended by both the Baron Schwarz and by the French commissioner. Mr. James asks if the Secretary of the Navy will permit him to bring fifty sailors from the Supply to Vienna for two or three weeks, and to retain six during the exposition. This will enable him, he thinks, without doubt to complete the arrangements in time and at small expense. The English commissioner has a detachment of navy reserves.

Mr. Jewett called upon me this morning and mentioned that Mr. Mayer had demanded from him that he (Jewett) should pay to Hitzel one thousand dollars which Hitzel had paid to Mayer, and that, on Jewett's refusing to do this, Mayer had demanded that he (Mayer) should have ten per cent. interest in his (Jewett's) restaurant at the exposition. This demand was also refused. Mr. Jewett says that his lawyer, Mr. Erhart, at 247 Broadway, is acquainted generally with the transaction.

I have, &c.,

JOHN JAY.

No. 16.

Mr. Jay to Mr. Fish.

No. 562.] AMERICAN LEGATION,
Vienna, March 13, 1873. (Received April 4.)

SIR: I have the honor to acknowledge the receipt at this legation of two copies of the "Foreign Relations of the United States, 1872."

I observe that in this, as in previous volumes, by an error, which I presume has been wholly accidental, and to which I should sooner have called attention, the correspondence with this legation is given under the former title of "*Austria*," and not under the present style of the empire, "*Austria-Hungary*."

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The omission of Hungary in a work emanating from the Department might touch the quick sensibilities of the Hungarians, whom their excellencies the Count Andrassy and the Baron d'Orczy so prominently represent in the Foreign Office. The theory of the union, as exhibited in the number of the delegations and their alternate annual meeting at Vienna and Pesth, is that of the perfect equality of the two parts of the empire.

I respectfully beg leave to suggest that an instruction be given for the substitution of the correct title, "Austria-Hungary," in all future volumes of "Foreign Relations," "Commercial Relations," or other documents emanating from the State Department.

I have, &c.,

JOHN JAY.

No. 17.

Mr. Jay to Mr. Fish.

No. 582.] AMERICAN LEGATION,
Vienna, April 11, 1873. (Received May 9.)

SIR: Referring to that part of my No. 574, of the 2d of April, which related to the occupancy by the English commission under a written allotment by the Baron Schwarz-Senborn of an important part of the space which I had understood had been originally designated for the American department, and referring also to the diagram which accompanied that dispatch, I have the honor to advise you of the steps which were successfully taken for the maintenance of our rights in that matter. On the 3d of April I received a letter from Messrs. McElrath and James, acting commissioners at Vienna, submitting the correspondence which they had had on the subject with the secretary of the British commission, Mr. P. Cunliffe Owen, and the letters they had addressed to the Baron Schwarz-Senborn, to which they had been unable to procure a response, and asking me to take such action as in my judgment might best promote harmony and at the same time preserve our national rights and dignity.

The first letter in the correspondence submitted to me by the commissioners was one addressed by them to the Baron Schwarz-Senborn advising his excellency that a grave question had arisen between them and the English commission, from the appropriation by the latter without the knowledge of the American commission, and in violation of the geographical plan of the exposition, of a large part of South America all, in fact, except that occupied by Brazil; and also of the space in the main hall between the courts and transepts of North and South America in violation, as the American commission submitted, of the baron's early assurances, and with the effect of excluding our republic entirely from that hall, and making her space in the exposition simply a side adjunct of the English exposition.

While submitting the case to the baron, as the supreme arbiter, and praying him to submit it to the English commission, whose high character and great intelligence, they trusted, would enable them to appreciate at once the extent of the wrong which had been done to us, no doubt, without the smallest intention, they frankly advised his excellency that they could not consent to what they considered an unwarrantable absorption of our proper territory; and that if his excellenc

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should be averse to an interference in a matter of such moment, they begged leave to express their readiness to leave the question of boundary and the rights of exhibitors in the Palace of Industry between the United States and England to the international arbitration.

The next note was one simultaneously addressed by the same commissioners to Mr. Philip Cunliffe Owen, the secretary of the English commission, communicating to him a copy of their letter to Baron de Schwarz-Senborn, and making directly the proposal for arbitration with the remark that they would be ready for an immediate hearing. "The rivalry," they observed, "between English and American exhibitors will no doubt be a sharp one. The British commission, with His Royal Highness the Prince of Wales at its head, assisted by illustrious noblemen and gentlemen, whose names are a guarantee equally to both countries, will undoubtedly desire that the exposition should commence with the feeling on either side that each commission, however zealous for the interests of its own country, has been ready at all times to exhibit toward the other equal justice and a graceful courtesy."

The third letter submitted was the reply of Mr. Owen, so short that it may be given entire. It was as follows:

66 PRATERSTRASSE, *April* 3, 1873.

GENTLEMEN: I beg to acknowledge the receipt of your letter of April 1, inclosing the copy of a letter which you addressed on the same day to His Excellency Baron de Schwarz-Senborn. I cannot enter into any discussion on the claims which it puts forward, and have only to state that the royal commission holds the official allotment of all the spaces referred to under the signature of Baron de Schwarz-Senborn, and that these spaces have long since been rented and paid for by British exhibitors. The royal commission have therefore no power to cede any part of them to others, nor can the rights under which they are held by private parties be a subject for arbitration.

I do not doubt that your communication has been made upon an imperfect knowledge of the official guarantees given to Her Majesty's commissioners.

I have the honor, gentlemen, to be, your obedient servant,

P. CUNLIFFE OWEN.

Messrs. THOMAS MCELRATH,
AMÉDIE JAMES,
Assistant United States Commissioners.

The last letter was one addressed by our commissioners, Messrs. McElrath and James, to the Baron Schwarz-Senborn, dated April 4, submitting to his excellency their note to Mr. Owen, and that gentleman's reply, and remarking that that reply left them no alternative but to state to his excellency with perfect frankness the position of the United States. They then recalled the fact that by the geographical plan, as explained by the baron himself to the American envoy at Vienna, the western end of the industrial palace was appropriated to America, and that the crowd entering at the western portal were to find themselves at once in the American department; that the baron had promised to reserve space appropriated to our republic, as late as the 25th April, and that the cession of it before that time to English exhibitors, giving to the British empire our own position, as the great western power, must have been made in forgetfulness of that assurance, and could have no validity until after the failure of the United States to be ready at the appointed day; that the change was contrary to the understanding on which the American Government and people had accepted the invitation of the imperial and royal government, and that it would be necessary for them to remit the matter to the American minister for the immediate advice of the President.

After the receipt of this letter his excellency had made an appointment to receive Messrs. McElrath and James, but had been unable to

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meet them at the time appointed, and as the matter seemed of immediate importance, they submitted it to me without further delay.

The case was evidently attended with grave difficulties, arising from the fact that his excellency the Baron de Schwarz-Senborn had actually allotted the space to England under his hand; that the English commissioner had sold it to English exhibitors, who had been put into possession and were rapidly occupying it with their show-cases and arrangements.

The baron had paid me a visit within a day or two to speak of the presidencies and vice-presidencies assigned to the United States; but he had also alluded to the notes he had received from our commissioners, one of which he produced and seemed to wish me to understand, although I thought it best at that time to avoid any expression of opinion on the subject; that while he was extremely sorry that the commissioners were dissatisfied—and he wished they had applied in time, &c.—a change now was simply impossible, and that the English, being in possession, would never yield.

The letter, too, of Mr. Owen, who was known to be on terms of intimacy with the baron, and who had been seen examining the space in company with Sir Andrew Buchanan, the latter having the note of our commissioners in his hand, seemed to indicate a fixed resolve on the part of the English commission, concurred in by the British embassador, to resist our claim, to ignore our original right, to treat with contempt our just claim to national equality, to decline arbitration, to avoid discussion and to rest upon the fact of possession and of a written allotment from the chief manager.

This position on their part, and the necessity of a prompt decision, induced me to think that our best hope of success lay in a plain presentment of the facts and of their bearing on the United States; and in pressing for an immediate response—yes or no—to be submitted to the President for such action as he might deem proper.

With this view I prepared the draft of the letter, a copy of which, in its completed form, is hereto appended; and I secured an appointment with the Baron de Schwarz-Senborn for Wednesday, the 9th, at his office in the Prater.

His excellency received me with his usual courtesy, and assented to my request that he would allow me to read to him the draft of my note, to which he listened attentively.

At its close he said that he would be glad to have a copy of my note and that he would reply to it. I said that a copy already nearly complete should be sent to him by the evening, and that I would with pleasure transmit to the President the text of his reply; but that I hoped he would not think me unreasonable in asking the favor of an immediate verbal answer which could be transmitted to the President by the cable that in case we were not to be restored to the position of equality, which we thought belonged to us, it might present a grave question for the consideration of the President; that I was utterly unadvised what view might be taken of it at Washington; but that if the President should hold the position now assigned us to be so materially different from that which had been anticipated by the Government and by Congress as to induce him to ask permission to withdraw the acceptance which Congress had given of the imperial invitation, under a misapprehension of the footing on which the republic would be received, his excellency would see that inconvenience and expense would be saved were the vessels intended for the exposition, and now about arriving a

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Trieste, enabled to return at once before their cargoes had been unloaded and forwarded to Vienna.

The baron seemed unpleasantly surprised at this suggestion, and unwilling to believe that such a decision by the President could be possible. He alluded warmly to the anxiety he had shown from the beginning to meet the wishes of the American exhibitors, and the pleasure he had had in giving them the presidency of the two important groups of "education" and "the trade and commerce of the world." I said in reply, that no one had appreciated more than myself the very friendly disposition he had constantly manifested, and which had been frequently alluded to in my dispatches; but that our exclusion from the main hall for the benefit of English exhibitors was another question; that his excellency knew sufficiently well the spirit of the American people to enable him to judge, without my assistance, whether they were likely to regard the new arrangement as consistent with the equal competition they had anticipated at the Austrian exposition, or how far they would be inclined to accept in an international assemblage so inferior a position.

After a few remarks, the baron said that with my permission he would do himself the honor to call upon me at the legation the next day at 1 o'clock, when he would render a decisive answer.

On leaving the baron, I drove to the Foreign Office. I had at first proposed to await the baron's reply, and in case it was unfavorable, to submit it to the Count Andrassy before announcing it by cable to the Department, but on reflection I was inclined to think that it might be safest to invoke the influence of Count Andrassy at once, on the ground that it might be more easy to secure it while the question was still open than after a decision of the baron intended to be *final*.

I found that the count was engaged, but he sent me word that he would see me at half past 6 that evening. At that hour I called, and, in a pleasant interview, I frankly explained to his excellency the situation. The count suggested that questions connected with international expositions should never be brought into diplomacy; that such questions had arisen during the Paris exposition; that there had already been a sharp one at Vienna between the French and the Germans, and that diplomacy could not stand if it were dragged into matters over which it had no proper control; that as Count Andrassy he would do what he could to arrange it, but as the minister for foreign affairs he could do nothing. I thanked his excellency for the assurance of his personal efforts, suggesting that while the principle he broached was generally sound, I thought cases might occur deserving of diplomatic attention from their close connection with international harmony.

He asked me to repeat what Baron de Schwarz-Senborn had originally told me about visitors entering at the western portal finding themselves on American territory and passing first through the American exposition; and he said that assurance had clearly entitled us to the space in the main hall between the transepts devoted to North and South America.

He made a note of the hour at which the baron was to see me the next day, and said he would see him before our interview.

As I was coming away the count said to me, with a smile, "Now, tell me, what is your minimum?" I said, "We think England should retire from all the American territory, which she has occupied without our consent." He replied, laughingly, "Yes, yes, but what is the least you will take?" I said, that which is essential to our national equality, as, the space in the main hall between the American transepts and half of the space opposite our court.

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The next day the baron called upon me and said that he had arranged to restore to North and South America all that part of the main hall lying between the transepts, and all that part of the South American transept which England had appropriated; that, to accomplish this, the imperial commission would have to inclose for the English exhibitors, thus displaced, one-half of the South American court. That in giving us this space he would ask the American commission to undertake the ornamentation of the western portal, as the commission from the Orient had undertaken that of the extreme eastern portal; and that they would also assume the placing of articles coming from other American states not represented by commissioners.

I cordially accepted this arrangement as satisfying our national dignity, and as in accord with the policy of our republic toward the other American states. I may add, that this arrangement gives us more space than we had expected to obtain, as his excellency the Baron de Porto-Sicuro, the envoy from Brazil, who had taken great interest in our reclamation of our rights, has offered us also half of the South American court, which had been appropriated to that empire.

The arrangement has given, I believe, entire satisfaction to the American commission in Vienna, and will enable a larger number of American exhibitors to send articles for the exposition; as the baron obligingly reminded me that he had long since consented to receive articles from America after the 1st of May, and that the juries do not commence their sessions until 15th of June.

I have, &c.,

JOHN JAY.

[Inclosure.]

Mr. Jay to the Baron de Schwarz-Senborn.

AMERICAN LEGATION,
Vienna, April 9, 1873.

BARON DE SCHWARZ-SENBORN: It is with some hesitation that I now address your excellency on a grave question connected with the exposition, for my official relations might perhaps seem to require me to communicate on such a subject only with his excellency the Count Andrassy, and yet, in view of the long and constant correspondence I have had the honor to hold with your excellency on various branches of the exposition, and of the friendly regard which has uniformly marked our pleasant intercourse, it seems due to that regard, that, before advising with the imperial and royal minister for foreign affairs, I should ask your excellency's permission, as I now beg leave to do, to submit without complaint, simply for your excellency's advice, the following statement:

I have received our official communication from Mr. McElrath, the senior American commissioner in Vienna, advising me that the British commissioners have taken possession, as they state, under a written authority from your excellency, of that part of the main hall of the exposition palace which lies directly in front of the transept and court allotted to the United States. "This change," the commissioner remarks, "entirely excludes our exhibitors from any participation in this conspicuously wide and spacious hall, and deprives us of the advantages of our geographical position." Accompanying letter of the commissioner is a copy of their first note to your excellency on the subject, dated April 1; of their note to Mr. P. Cunliffe Owen, secretary of the British commission, of the same date, sending that officer a copy of their note to your excellency, and expressing their willingness to leave the matter to international arbitration; of the reply of Mr. Owen, dated April 3, declining all discussion and rejecting the proposal for arbitration, and of their second letter to your excellency, dated April 4 inclosing a copy of the correspondence with Mr. Owen, and asking the favor of a reply at the earliest possible moment.

The commissioner states that, having received no reply from your excellency, and having been unfortunate in not finding your excellency at the appointments made for an interview, the correspondence is submitted to me as the immediate representative

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of the President, with a request that I will take such action upon it as in my judgment will best promote harmony, at the same time that it preserves the rights and dignity of the United States.

The letters of the American commissioners have advised your excellency of the difficulty which they find in understanding the reason of the change, which had been effected without their knowledge, in the plan of the exposition and the position of America, and a similar difficulty is likely to exist in the United States.

In explaining to me the original plan of the Industrial Palace, your excellency advised me of the geographical arrangement which had been adopted; that the exposition was intended to instruct by the eye, and that the different countries were to appear in succession in their proper place; that the two Americas, North and South, would occupy the western end of the palace, standing together and apart from Europe; that on entering the palace at its western portal the visitors would find themselves on American territory, and pass first through the American exposition on their way to England, France, and Germany.

The advantage thus pointed out by your excellency as belonging to the American Republic, as the extreme western power, was not unnoticed in the United States, where the exposition has been regarded with peculiar interest, as affording the first opportunity for the proper presentment of the Western Continent to the people of Eastern Europe and Western Asia.

By the new geographical arrangement Great Britain appears as the extreme western power of the world, occupying nearly half of South America, and the whole of the principal nave between the American courts and transepts. The stream of visitors, on entering, will find itself not in American, but in British territory, surrounded by British manufacturers, and in that grand gallery, from the western portal to the rotunda, amid all the articles exposed for exposition, there will be no more reminder of the American Republic than if America had yet to be discovered, or if the United States were yet to be recognized by Austria-Hungary as entitled to a place among the great powers of the world.

The new position assigned to America accords as little with international history as with geographical truth; and, as the Vienna exposition is intended fairly to represent the present and not the past, your excellency will pardon me for the remark, that nearly a century has passed since the fitting place for the United States in a gathering of the powers of the world was as a side adjunct to the British Empire.

To the natural question of the commissioners, why those changes had been made; why the proper place assigned for America in the great nave, and of which your excellency showed me the advantages, has been taken from her and assigned to England, not with any equivalent advantage to our republic, but wholly to her disadvantage, banishing her absolutely from the central hall, and remitting her to a comparatively inferior and obscure position; and especially to the question why if England wanted more space it could not be taken in her own transepts, instead of taking the space allotted to America in the nave, no answer has been given beyond the reply of the secretary of the royal commission, which can hardly be expected to satisfy my countrymen, that they decline discussion or arbitration, and rest their claim to the space in question upon an allotment from your excellency, which had been duly paid for

If for this deprivation of the republic from her equal rights, and her banishment from the great hall of the palace, without even a notice to her commissioners, any apology has been afforded by the conduct of the American commission, I am unadvised of the fact. I have not heard the smallest complaint of the course of that body, and I believe that their conduct in the matter, from the beginning, has been marked by the most perfect courtesy and fairness. I understand that they have accepted in the various departments the arrangements made by your excellency for the American Republic without complaint, if not always without surprise, at the inequality of the allotment, and that they have incurred without hesitation the expense of inclosing their court, and building a hall for machinery, rendered necessary by the scanty space in that department.

I have no hesitation in saying, that had any authorized member of that commission attempted to mar the harmony of an international gathering intended to illustrate the height of the world's culture by any act of discourtesy or unfairness toward another nationality, or by any attempt to gain an advantage over rival exhibitors by means unbecoming the dignity and honor of the republic, his conduct would have been met by the reprobation of Americans as certainly as it would have been by the contempt of the world.

In the bearing of the President and of Congress toward this great work of the imperial and royal government, I am equally at a loss to find an excuse for this unexpected treatment of my country at the moment when their efforts for a generous representation of American products from its fullest limits were being crowned with success.

Permit me to recall to your excellency the fact, that before the close of the year 1871 the imperial and royal government had received the most cordial assurances on

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this subject from the United States. In an official note addressed to this legation on the 7th January, 1872, and which was published at Washington in the diplomatic correspondence of that year, his excellency the Count Andrassy, master of the imperial house, and imperial royal minister for foreign affairs, said:

"The minister for foreign affairs has observed with great pleasure, from a report of the Austro-Hungarian legation at Washington, how friendly an interest is cherished by the Government of the United States of America in the success of our great patriotic work, the universal exposition at Vienna.

"As it has not failed to impress him that these favorable feelings are chiefly to be ascribed to the active co-operation exhibited by the envoy extraordinary and minister plenipotentiary, John Jay, in behalf of the enterprise, the undersigned minister of the imperial house and of foreign affairs has the honor to express the most sincere thanks of the imperial and royal government, and solicits a continuance of his favorable support."

In reply to this last clause I said:

"The undersigned begs leave to assure his excellency that it will afford him the sincerest pleasure to do whatever lies in his power to accomplish, in this regard, the favoring wishes of the President, whose friendly interest in the success of the exposition has been so cordially expressed to the envoy of the imperial and royal government."

The promise thus given by me has been, as your excellency is aware, faithfully kept, and the proceedings in the United States for accomplishing your wishes have steadily advanced.

In June, 1872, Congress passed the first act on the subject for the appointment of commissioners. In December, President Grant recommended to Congress the making of an adequate appropriation, referring to the exposition "as being on a scale of very great magnitude," and remarking that "the tendency of these expositions is in the direction of advanced civilization and the elevation of industry and of labor, and of the increase of human happiness as well as of greater intercourse and good-will between nations."

Congress, thus appealed to, made an appropriation of $200,000. The President appointed, in accordance with their joint resolution, eight practical artisans, seven scientific men, and eighty-nine honorary commissioners. Two ships of the United States Navy, now on their way to Trieste, were detailed to bring the goods of the exhibitors, who are reported to be about 700 in number, and it is stated in a New York journal that from 1,200 to 1,500 exhibitors, mechanics, and assistants will be employed in the American department and in the working of the machinery.

I need scarcely say to your excellency that the interest which I have felt from the commencement in the fitting representation of America at the exposition, and the friendly interest which the President so cordially expressed to his excellency the Baron Lederer, at Washington, in December, 1871, which was so gracefully acknowledged by the Count Andrassy in January, 1872, was based upon the assumption that the United States had been invited to assist at the exposition on an equal footing with the other great powers, and that no American envoy, no President of the United States, no member of Congress, and no true American citizen would consent to the appearance of the republic at an international exposition upon any other condition.

The partial plan of the Palace of Industry, furnished to me by your excellency showing the American section marked and colored, showed no appropriation of any part of the nave, and there was nothing in its lines to dispel my belief that the nationalities occupying transepts would have, of course, their share of the nave adjoining them.

Among the great powers who are to assemble at Vienna, America is the only one whom it is now proposed to exclude from that common privilege.

Without touching these questions that will be thoroughly and widely discussed hereafter in regard to the motives and the measures connected with this attempt to ostracize America from her geographical place in the principal hall of the exposition, and to exclude from competition and observation in that hall all American products and manufactures, I ask your excellency simply to observe that the American commissioners when their ships are approaching your port of Trieste, are requested to acquiesce in this exclusion, to yield the place of the American Republic as the first western power to Great Britain, and to accept for her hundreds of exhibitors from thirty States, extending from the Atlantic to the Pacific, and from the borders of Canada to those of Mexico a position inferior in dignity to that awarded to the exhibitors of England, France, Italy, and Germany.

Your excellency, I think, will frankly admit that these conditions differ so widely from that equal footing on which the President, the Congress, and the people of the United States supposed that they were invited to assist at this international festival that no duty will be left me, should I submit the case without avail to your excellency than to advise his excellency Count Andrassy of the unexpected circumstances which must forbid my longer fulfilling the assurances which I gave so cordially in response to

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the request of the imperial royal government, and to announce to the President the final decision of the imperial commission.

I deem it but justice to your excellency to add the expression of my belief that, in consenting to the cession of the space in question, your excellency, immersed in perplexing duties, and with an unusual strain upon your time and thoughts, did not appreciate the full significance of the act, and that your excellency had no real intention of ignoring the equality of right between rival nationalities, or of offending the just susceptibilities of the American people.

Further than this, I think that your excellency is now convinced that, apart from any assurances given or implied in your excellency's language to me, of which I had never a doubt, the geographical plan of the exposition, as announced to the world, entitled the Americas, equally with Europe, to be represented in the nave, and that the American Republic should not have been shut out, without an opportunity of being heard, on the solicitation or for the benefit of European exhibitors.

Entertaining these convictions, I have pleasure in asking your excellency's attention to the following passage in the note of Mr. Commissioner McElrath:

"The eminent French contractors, Messrs. Bose and Matthiessen, now inform me that on three days' notice they will contract to inclose a court similar to the one they are now building for us, and complete it within fifteen days."

If, therefore, the exclusion of America from the nave has been, as I assume, unintentional on the part of your excellency, there is still time and opportunity to repair the error. England has two courts, either of which will afford to her exhibitors more than the space of which she has obtained possession in the American department, and her manufacturers can be amply accommodated without excluding from the hall the American Republic.

I therefore venture to trust that your excellency will not hesitate to restore at once the original geographical plan, and return to the Americans the whole of their transepts and courts, and the space in the great hall lying between them.

Although formally unauthorized to speak for the States of North and South America who are unrepresented at Vienna, your excellency will, I trust, permit me, as the envoy of the American Republic, to exercise the friendly office of saying a word in behalf of those absent American States which may be preparing to assist at your exposition, and to ask that so much of the South American court and transept as may not be required by the empire of Brazil shall be reserved exclusively for exhibitors from the two Americas, as they may agree together. I am informed that a vessel is now on its way from Venezuela with a cargo for the exposition; and it is possible that, before its close, articles may come from Mexico, the States of Central America, Colombia, Ecuador, Peru, Bolivia, and Chili.

I have, to-day, seen Sir Andrew Buchanan, one of the members of the royal commission of Great Britain, and, in a conversation on this subject, commenced by his excellency, I learned that his excellency had been entirely unaware, until I informed him of the fact, that the space which he had regarded as beyond the reach of arbitration, for the reason that it had been assigned and paid for by British exhibitors under a written allotment by your excellency, had been previously allotted to North and South America under the geographical plan, and that, under that plan and your excellency's assurance that visitors would enter on American territory and pass first through the American exhibition, we had regarded our fair share of the hall as pledged to us as certainly and sacredly by the imperial invitation and your excellency's word as if it had been given under the imperial seal.

I presume that the members generally of the royal British commission are equally unaware of the true state of the case, and that his royal highness and the illustrious noblemen and gentlemen who compose that distinguished body, true to their ancestral mottoes, *noblesse oblige* and *fair play*, would be as prompt to disapprove any want of fairness to their American rivals as they would have been to resent the wrong if an American commissioner, with uninclosed courts at his disposal, had obtained, without notice to them, a concession of the nave, between the British sections, to compel Englishmen, thus excluded from the principal hall, to enter their transepts as side adjuncts to an American department.

I am sure that your excellency has never intended that your exposition, looking, as it does, to the increased good-will of nations, should to any degree impair the supremacy of international courtesy and international justice as the unwritten but inexorable law of nations, the smallest violation of which is to be adjudged before the tribunal of the world.

For this reason, now that your excellency has learned that the foreign occupation of our proper American territory is conspicuous neither for courtesy nor for justice, and that an easy solution of the difficulty by the substitution of space in the courts happily presents itself, I indulge the hope, not devoid of confidence, that the American department will be at once restored to its integrity and independence, and the republic re-instated in its original and geographical position; nor am I without a hope that the

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royal commission of Her Majesty, when made aware of the facts, will give to this arrangement their prompt and full approval.

Should I be unfortunately disappointed in my expectations as to the action which your excellency may think fit to take in restoring us to what we believe to be our rights, I have only to say that, in announcing to the President the change that has been made, and the circumstances under which it has been effected, I will faithfully transmit to the President whatever explanations your excellency may think fit to furnish.

I have, &c.,

JOHN JAY.

No. 18.

Mr. Jay to Mr. Fish.

No. 591.] AMERICAN LEGATION,

Vienna, June 6, 1873. (Received June 25.)

SIR: The successive visits to Vienna, by invitation of the Emperor, of the Crown Prince and Princess of Prussia, the Crown Prince of Denmark, the Prince of Wales and Prince Arthur, and the King of the Belgians—all of whom said something civil to me about the United States, the King of the Belgians adding that he hoped soon to come over and see a republic which he so much admired—were followed this week by the arrival of the Emperor of Russia, the Czarowich and his wife, the Princess Dagmar of Denmark. They were accompanied by Prince Gortchacow, to whom I was presented at the reception at the Russian embassy on the evening of their arrival.

The prince said, as he offered his hand, "We are a long way from each other, but we are very good friends." He remarked that they had had a sad loss in the death of Mr. Orr, whom they had begun to know and to like, and then he asked, with some interest, who was to succeed him. I said I had seen the name of Jewell mentioned, but that I had no reliable advice. He said, "Mr. Fish wanted Pierrepont, but he declined; perhaps he was afraid of our climate;" and he added, "I don't think any new appointment has been made."

Yesterday the Emperor Alexander, after attending a review in the morning near Schönbrunn and lunching with the embassador of Germany, received the diplomats at the Burg a little before the grand dinner given in his honor by the Emperor. The time was short, so that the Emperor had but a word or two for each as he passed around the circle, and the chiefs of missions were severally presented to him by Mr. Novikoff.

The only noticeable remarks he made to me was his last words, "We are good friends, you know;" and presently, when saying to the Baron Porto-Seguro, the envoy of Brazil, who was next to me, "Your Emperor was very kind to my son," he turned again to me and said, "*Et vous aussi.*"

The reception over, the secretaries and attachés retired, and their chiefs joined the party invited to assist at the dinner, the guests numbering one hundred and forty. Before its conclusion, His Majesty the Emperor of Austria rose and proposed the toast:

"To the health of our dear guest, my well-beloved friend, His Majesty the Emperor of Russia!"

The Czar presently responded with the words:

"To the health of His Majesty the Emperor of Austria, whom I cor-

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dially thank for his good words, and to the health of Her Majesty the Empress!"

The toast was drunk without any signs of applause.

After dinner the Emperor again spoke to me, and the Czarowich, on my being presented to him, alluded pleasantly to America and to the warm reception his brother Alexis had received there, and at the close of the interview shook hands cordially.

His Excellency the Prince Gortchacow did not assist at the fête given to his Emperor at Schönbrunn on Tuesday, nor at the gala dinner on Wednesday, nor at a grand ball by the Princess Hohenlohe on Thursday. His absence is, I hear, attributed to his reported indisposition.

The Viennese journals have generally hailed the coming of the Emperor and his son as a favorable omen for the future harmony of Russia and Austria-Hungary; and one sheet has suggested that Count Andrassy, Prince Gortchacow, and the German embassador might together arrange diplomatically the Eastern question. But there is not, I think, in diplomatic circles much confidence that such a plan is possible. The Czar's response to the toast of his host, it is remarked, was less demonstrative than the language of Francis Joseph, and it is not believed that the course pursued by Austria in the war of the Crimea is yet forgotten at St. Petersburg.

As regards Germany, the affection of the Czar for his uncle is beyond question; but the Czarowich is looked upon as sharing the sympathies of that party in Russia which is less fond of Germany and the Germans.

I have, &c.,

JOHN JAY.

No. 19.

Mr. Jay to Mr. Fish.

No. 617.] AMERICAN LEGATION,

Vienna, August 15, 1873. (Received September 4.)

SIR: Mr. Thacher advises me that he is to make to you a full report of the proceedings of the recent congress for patent-reform, but as some little time may elapse before its completion, I send, for the information of the Department and of the Patent-Office, a copy of the resolutions adopted by that body.

The last resolution converted the preparatory committee into a permanent executive committee, with power to add to their number; and this provision, the importance of which seemed, when first suggested, to be but imperfectly appreciated by some of the leading members of the congress, promises to secure a continuance of organized effort. France took no part in the congress, but is expected to furnish members to the executive committee.

His excellency the Baron Schwarz-Senborn, Mr. Siemens, the president of the congress, Mr. Webster, the English patent-jurist, appointed by the government to report its proceedings, and Mr. Owen, the British commissioner, have all spoken to me of the congress as a success in the character and ability of the delegates, and the unanimity of their views and their earnest determination. The Baron Schwarz-Senborn is the president of the executive committee, Mr. Pieper, of Dresden, its secretary, and Mr. De Rosas, to whom I have previously referred as

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the highest legal authority in Austria on patent-questions, its treasurer.

The executive committee, after the adjournment of the congress, waited, by appointment, upon the Count Andrassy and Mr. Banhaus, the minister of commerce.

The Count Andrassy expressed warmly his pleasure at the success of this congress, and his full approval of its general views. Mr. Banhaus, who spoke with more reserve, received them cordially, said that the patent-laws of Austria required revision, and intimated that he would gladly avail himself of the suggestions of the congress. Mr. Thacher regarded his language as non-committal, but Mr. Siemens thought it extremely encouraging, especially in a remark that he dropped in addressing Mr. Thacher, when he said, in allusion to our coming negotiation, that he hoped he might be able to meet the views of the American minister.

I am told that the Count Zichy, the minister of commerce for Hungary, is decidedly in favor of a patent-reform, and this fact is the more important in view of the position of the Count Andrassy, and of the fact that political reasons rather incline Austria to assent to imperial measures that are warmly desired by Hungary.

I have had several conversations with Mr. Thacher on our best mode of procedure, and he agrees with me in thinking that if the revision of the existing patent-law of Austria-Hungary is about to be taken up by the two ministries of commerce, it affords a favorable opportunity of obtaining the changes which we deem desirable, and with less likelihood of their being opposed in the Reichsrath than if they were first presented in an international convention.

Mr. Thacher, at my request, has read carefully the translation of the Austrian law contained in yellow volume published by the English commission, of which I sent you a copy, [and three more copies got to the Department by this post,] commencing at page 91, and has furnished me with a note of the alterations which he would deem advisable. A copy of this note I add. (Appendix II.)

I have recommended him to submit these suggestions to Mr. Webster the English jurist, and to Messrs. Pieper and Rosas, that they may be brought to the notice of the minister of commerce and the superintendent of the Austrian patent-office in the most judicious manner.

If the really important differences between the Austrian and American systems can be adjusted in a revision of their own legislation, the proposed convention may follow almost as a matter of course, and with no objections on the part of the Parliaments, on the ground that it contradicts and changes the law and policy of the empire.

I beg leave to suggest that the note of Mr. Thacher may be revised by Mr. Leggett, and that I may be advised of the views of the chief commissioner upon the subject; and I think it might also be of material advantage to have, as soon as may be convenient, the draft of such a convention as the Department would approve as a guide to the action which I may find it proper to take in making suggestions to the executive committee of the congress, or in answering the questions which may be put to me by this government in regard to the views of the Patent-Office at Washington.

The practical difficulties in the way of a convention will, I think, in a great measure disappear with the adoption by this government of the leading principles declared by the congress; with the deposition in each country of copies of all the specifications from the patent-office of the other; the employment in each country of a patent expert from

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the other to assist in examinations and in the procurance of patents; and especially with a provision, that while disputed questions shall in each case be first decided by the courts of the country where they arise, there shall be an appeal to an international tribunal to be established. Should Austria, the United States, and England unite in such a treaty, each country might perhaps furnish a judge to constitute a permanent and final court of appeal.

I have, &c.,

JOHN JAY.

[Appendix 1.]

Resolutions adopted by the patent congress, Vienna, Austria, August 5–10.

I. The protection of inventions should be guaranteed by the laws of all civilized nations under the condition of a complete publication of the same; because—

(a.) The sense of right among civilized nations demands the legal protection of intellectual work.

(b.) This protection affords the only practical and effective means of introducing new technical ideas, without loss of time and in a reliable manner, to the general knowledge of the public.

(c.) The protection of invention renders the labor of the inventor remunerative, and induces thereby introduction and practical application of new and useful technical methods and improvements, and attracts capital from abroad, which, in the absence of patent protection, will find means of secure investment elsewhere.

(d.) By the obligatory complete publication of the patented invention the great sacrifice of time and of money, which the technical application would otherwise impose upon the industry of all countries, will be considerably lessened.

(e.) By the protection of invention the secrecy of manufacture, which is one of the greatest enemies of industrial progress, will lose its chief support.

(f.) Great injury will be inflicted upon countries which have no national patent laws by the native talent emigrating to more congenial countries, where their labor is legally protected.

(g.) Experience shows that the holder of a patent will make the most effectual exertions for a speedy introduction of his invention.

II. An effective and useful patent law should be based on the following principles:

(a.) Only the inventor himself, or his legal representatives, should be entitled to a patent. A patent should not be refused to a foreigner. It is advisable, in carrying out this principle, to introduce a system of preliminary examination.

(b.) A patent should be granted either for a term of fifteen years, or be permitted to be extended to such a term.

(c.) Simultaneously with the issue of a patent, a complete publication of the same should take place, rendering the technical application of the invention possible.

(d.) The expense of obtaining a patent should be moderate; but, in the interest of the inventor, a progressive scale of fees should be established, enabling him to abandon, when convenient, a useless patent.

(e.) Facilities should be given by a well-organized patent-office to obtain in an easy manner the specification of a patent, as well as to ascertain what patents are still in force.

(f.) It is advisable to establish legal rules, according to which the patentee may be induced, in cases in which the public interest should require it, to allow the use of his invention to all suitable applicants, for an adequate compensation.

(g.) The non-application of an invention in one country shall not involve the forfeiture of the patent if the patented invention has been carried into practice at all, and if it has been rendered possible for the inhabitants of such country to purchase and make use of the invention.

In all other respects, and particularly as regards the proceedings in the granting of patents, the congress refers to the English, American, and Belgian patent laws, and the draft of a patent law prepared for Germany by the Society of German Engineers.

III. Considering the great differences in patent legislation, and the altered international commercial relations, the necessity of reform is evident; and it is of pressing moment that governments should endeavor to bring about an international understanding upon patent protection as soon as possible.

IV. The congress empowers the preparatory committee to continue the work commenced by this first international congress, and to use all their influence that the principles adopted be made known as widely as possible, and carried into practice. The

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committee is likewise authorized to endeavor to bring about an exchange of opinions on the subject, and to call from time to time meetings and conferences of the friends of patent protection.

To this end the preparatory committee is hereby appointed, to act as a permanent executive committee, with power to add other members to their number, and to appoint the time and place for the next meeting of the congress, in case such a meeting should be considered necessary, for the promotion of the results achieved.

[Appendix 2.]

Mr. Thacher's note of desirable amendments to the Austrian patent laws.

SECTION I.

§ 1.

Note 1, *clause* 1. Amend by erasing and substituting therefor the following: "An exclusive patent may be granted for each new discovery, invention, or improvement *to the original inventor thereof, or his legal representatives.*"

This limitation seems to be necessary, for in the law, as it now stands, no such restriction is to be found.

Note 1, *clause* 5. Erase "*addition*" and insert instead "*material change.*"

This amendment is desirable in view of the construction put upon the clause by the Austrian government, by which the improvement of a device by taking away some part is not regarded as an improvement.

Note, clause 6. Amend by inserting after the word "*publication,*" in the second line the words "*or a foreign patent.*"

The publication of foreign patents should be regarded as notice to the world.

§ 2.

The United States grants patents for chemical compositions and preparations; but perhaps, it is not desirable to urge an amendment of this section to correspond with our practice.

§ 3.

Note, clause 1. The United States law does not require that the invention shall have been patented abroad. It is suggested that this clause should be amended accordingly.

Note, clause 2. Erase "*owner,*" and insert "*patentee*" instead.

SECTION II.

§ 9.

Clause d. Strike out altogether "*A patented invention should never remain a secret, but be fully disclosed through the specifications.*"

§ 11.

If possible, the tariff should be reduced.

§ 17.

Erase and insert in lieu the following: "*An examination into the novelty or the usefulness of the discovery, invention, or improvement stated, will take place before the patent is granted, but the state administration do by no means guarantee the absolute novelty and utility of the invention patented,*" should be amended so as to ingraft upon the Austrian law a system of preliminary examinations.

§ 10.

Amend by inserting "*and* § 17" after § 16 in second line.

SECTION IV.

§ 29.

Substitute "*patentee*" for "*owner*" in *b b*.

2 *a*. This limitation should be abrogated if possible.

§ 32.

Amend by striking out *reference to secret patents.*

SECTION VII.

§ 40.

Strike out *reference to secret patents.*

§ 42.

This paragraph should be amended so as to leave all questions arising in patent suit

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to the judiciary of the country. The remaining paragraphs of this section require thorough revision, so as to leave all these questions to the courts.

General observations.—It is suggested that in any convention between Austria and the United States it may be desirable to limit the exclusive right of a citizen of either country to obtain a patent for his invention in the other, to a reasonable term, after the grant of his own patent, say two or three years, and if he neglects to avail himself of the privilege provided by law within such time, the invention shall become public property. In this way inventors would be stimulated to patent and introduce their inventions in foreign countries.

Patents granted in one country should be granted in the other, unless rejected upon additional proof of want of novelty.

No. 20.

Baron Lederer to Mr. Fish.

[Translation.]

WASHINGTON, *November* 21, 1872. (Received Nov. 23.)

The SECRETARY OF STATE:

I hastened to transmit to the imperial royal government the note which you were kind enough to address me about the nationality of one Francois A. Heinrich, and by which you informed me that, in accordance with the Constitution of the United States and the laws in force here, every individual born on their territory is considered their citizen.

The imperial royal minister of the interior, to whom this communication was submitted, has just declared that the principle stated above cannot be applied by the imperial royal government to the case of Francois A. Heinrich, who, being legally an Austrian subject, has consequently been called upon to fulfill his military duties.

The imperial royal minister of foreign affairs has approved this decision for the following reasons:

Francois A. Heinrich was born in New York in 1850, where his parents were temporarily established, as is shown, Mr. Secretary, by a passage in the note which you did me the honor to send me, and which states expressly that Francois A. Heinrich is "a person born in New York of persons who were foreign subjects."

The parents of the said Francois were not naturalized during their stay in the United States; they therefore wanted the necessary conditions to entitle them to consideration as citizens of this republic, as was stipulated in Article 1 of the treaty of naturalization, signed on the 20th September, 1870, between Austria, Hungary, and the United States.

It results that their son, Francois A. Heinrich, who by his birth should be of the nationality of his parents, in conformity to Articles 4 and 28 of the Austrian civil code, and to the general principles of personal law, is an Austrian citizen. For Francois A. Heinrich returned to Austria as a minor of about two or three years of age, where he has remained for twenty years without having fulfilled any of the duties of the nationality of which he now desires the protection in order to evade his military service in Austria.

On the contrary, during this time he has enjoyed the rights of an Austrian citizen. In 1866 and 1867 he was furnished with passports with which he traveled under the protection of the imperial and royal authorities in his quality of Austrian subject.

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The isolated fact, that once he found the means to have a passport delivered to him by the consul of the United States at Stuttgart in Wurtemberg, should not be a reason to prejudice the question of his nationality.

In accordance with the order of my government, I make you acquainted, Mr. Secretary, with the above-mentioned reasons which have led it to consider Francois A. Heinrich as an Austrian subject, and I avail myself of the present occasion, &c.

LEDERER.

No. 21.

Mr. Fish to Baron Lederer.

DEPARTMENT OF STATE,
Washington, December 24, 1872.

SIR: The undersigned, Secretary of State of the United States, ha the honor to acknowledge the receipt of the note which His Excellenc the Baron Lederer addressed to him on the 21st day of November, an has given very careful consideration to the facts with reference to th nationality of Francois A. Heinrich therein set forth.

Baron Lederer brings to the knowledge of the undersigned, for th first time, the important fact that Heinrich had, on more than one occa sion, availed himself of Austrian protection, and traveled as an Aus trian subject under an Austrian passport.

This fact, in connection with the provisions of the treaty signed o the 20th of September, 1870, induced a reconsideration of the questio and of the opinion which had been expressed without the informatio conveyed by Baron Lederer's note with regard to Heinrich's natio ality.

The whole question has been submitted to the examination of the At torney-General, who is of opinion that, inasmuch as the treaty abov referred to provides that citizens of either country (the Austro-Hun garian monarchy and the United States) who have resided in the ter tories of the other uninterruptedly for five years, and during such res dence have become naturalized citizens of the other country, are to b treated as such; and while, as a general rule, a person born in th country, though of alien parents who have never been naturalized, i under the laws of the United States deemed a citizen of the Unite States, that the treaty clearly recognizes the right of an American cit zen to change his nationality and become a subject of Austria.

Applying these views to the case of Francois Heinrich, the Attorne General, in view of the statements in the note of Baron Lederer, tha under the laws of Austria a foreign-born child of Austrian parents take the nationality of the latter, and is regarded as an Austrian, and tha Francois Heinrich has at different periods obtained passports from th Austrian government and traveled under their protection as an Au trian subject, taken in connection with the length of time during whic he has resided in Austria, thinks these circumstances may be viewed a a sufficient manifestation of consent on his part, at those periods e pecially, to be a member of that nation; and that such consent co-opera ing with the law of Austria, to which reference has been made, (b which he says it would seem children of Austrian parents born abroa

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are naturalized at their birth,) and accompanied, moreover, by continued residence in that country, effected a complete change in his nationality from American citizenship to Austrian citizenship.

The Attorney-General concludes by saying, that, in view of all the facts and circumstances appearing in this case, he is of the opinion that, under the provisions of the aforesaid convention, Francois A. Heinrich should be held by the United States to be an Austrian subject, and treated as such; that he is not an American citizen, and consequently not entitled to protection from this Government.

Following this opinion of the Attorney-General, the undersigned has the honor in reply to the question addressed to him by Baron Lederer, in his note of the 6th of April last, to say that Francois A. Heinrich is not, and will not be, regarded as a citizen of the United States, so long as he remains within the jurisdiction of the Austro-Hungarian dominion.

The undersigned avails, &c.,

HAMILTON FISH.

V.—BELGIUM.

No. 22.

Mr. Jones to Mr. Fish.

No. 183.] LEGATION OF THE UNITED STATES,
Brussels, January 20, 1873. (Received February 10.)

SIR: No successor to General Guillaume, who recently resigned the ministry of war, has yet been found.

Count d'Aspremont Lynden, minister of foreign affairs, for awhile assumed the charge of the war department, but, being ill, M. Malou, minister of finance, is now acting minister of war. The difficulty seems to be to find a man of sufficient ability who is in accord with the ministry.

Much interest and a good deal of discussion in the chambers and in the press have been occasioned by negotiations said to be pending for the cession of the Luxembourg railway, owned by an English company, to a company composed of Germans and Belgians. The commercial and manufacturing interests of the country oppose the cession, and insist that if the road is to be sold the state shall purchase it. This subject occasioned a good deal of discussion in 1868, when it was proposed to lease this road to a French company, and in February, 1869, a law was passed prohibiting railway companies having charters in Belgium from ceding or leasing their lines without the consent of the government. It is understood the government favors the sale, but the opposition has become so formidable that the present indications are that the scheme will be abandoned.

The Emperor of Germany has conferred the order of the red eagle on Count d'Aspremont.

Spain is still represented here by a chargé d'affaires. M. José Antoine de Aquilar, who succeeded M. Paxtot, was here but a few days.

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M. de Aquilar is the third appointment within three years—Asquerino, Paxtot, and de Aquilar.

Heretofore this government has had but one representative for both China and Japan.

Recently M. De Groote has been appointed to Japan. A portion of the press complains of his appointment on the ground of his never having been in the diplomatic service.

I have, &c.,

J. R. JONES.

No. 23.

Mr. Delfosse to Mr. Fish.

[Translation.]

LEGATION OF BELGIUM,
Washington, July 24, 1873.

MR. SECRETARY OF STATE: The "opinion" of the honorable Attorney General of the United States appears, at least as it has been published to render the refusal of the Federal Government to grant the extradition of Carl Vogt, alias Stupp, to the German government nearly certain.

In this state of things, I desire now to renew the request made by the Belgian government in April, 1872, that the said Vogt, who is charged with the threefold crime of robbery, arson, and murder in Belgium may be delivered up to justice in that country.

The result of the various phases through which this case has since passed, induces me to reiterate my request, in the hope, which is, I trust, well founded, that the Federal Government, in the exercise of the right which has been consecrated by international usage, will now be both able and willing to comply therewith.

The State of New York, in which Vogt is legally held, recently decided upon and ordered his extradition, (which, however, has been suspended on the ground that the Federal authorities alone have the right to do so.) Moreover, the enormity of the threefold crime with which Vogt is charged; the evidence furnished, which fully shows that the accusation is warranted by facts which will be impartially appreciated by courts of justice; the decision of the Federal commissioner, at New York, recognizing the value of this evidence, which has been submitted to him; the approval of this decision, expressed by the judge of the Federal district court, these accumulated circumstances, I say, as regards the question of fact, which is not contested or in any way touched by the arguments of the honorable Attorney-General concerning the interpretation of a special treaty, are so many reasons which I invoke in support of my request for the delivery of Vogt to justice in Belgium in which country the crimes were committed, that he may be taken before the courts and tried according to law.

It would be impossible, I think, to imagine a case in which extradition by voluntary concession and good offices, in the absence of a treaty would be more justifiable. This concession, under such circumstances especially in view of the extradition already ordered by the State of New York, where Vogt is held, would violate no principle, would establish no compromising precedent, would protect, in a high social interest

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the supreme rights of justice, and would, moreover, be a highly appreciated evidence of good-will toward a friendly government.

In soliciting your kind consideration of this communication, which I write in haste by reason of the urgency of the situation, I beg you to accept, &c.,

MAURICE DELFOSSE.

No. 24.

Mr. Davis to Mr. Delfosse.

DEPARTMENT OF STATE,
Washington, July 28, 1873.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, in which, referring to a communication from the Department of Justice to this Department, which had found its way into the public newspapers, you express the opinion that it would render almost certain the refusal of this Government to accord the extradition of Carl Vogt, or Stupp, to the German government, and you accordingly renew the request formerly made, that Vogt may be delivered up to Belgium as an act of comity.

In the personal interview which I had with you on this subject, simultaneously with the reception of your note, I was able to inform you that this Government had already at that time taken into consideration whether in the absence of a treaty with Belgium the laws of the United States would permit the surrender of this criminal to your government. I informed you at the same time that while the United States do not admit an obligation under the principles of international law, which are recognized by governments, to surrender from within their jurisdiction and the protection of their laws a person accused of crime, in order that he might be tried by a different system of laws and jurisprudence, yet that, under the circumstances of this case, the Secretary of State had felt disposed to examine into the power to surrender Vogt to your government as an act of comity.

The result of that examination has, to say the least, raised grave doubts as to the power of the President to do so. The authority of the Executive to abridge personal liberty within the jurisdiction of the United States, and to surrender a fugitive from justice in order that he may be taken away from their jurisdiction, is derived from the statutes of Congress, which confer that power only in cases where the United States are bound by treaty to surrender such fugitives, and have a reciprocal right to claim similar surrender from another power. I am, therefore, constrained to decline to comply with your request for the surrender of Carl Vogt.

I deem it proper to add, with reference to your remarks upon the opinion of the Attorney-General, that correspondence of this nature is regarded as domestic and confidential, and is not esteemed to be a proper subject of criticism or comment on the part of the representatives of other powers.

Accept, &c.,

J. C. B. DAVIS
Acting Secretary.

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No. 25.

Mr. Delfosse to Mr. Fish.

[Translation.]

LEGATION OF BELGIUM,
Washington, July 30, 1873. (Received July 30.)

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note of the 28th, whereby you were pleased to inform me that serious doubts, at least, are entertained as to the power of the President of the United States to comply, without acting in contravention of the acts of Congress which regulate and limit this power, with the request which I have presented, in the name of the government of the King, that Carl Vogt, alias Stupp, may be delivered up to the Belgian authorities, and further to inform me that you therefore feel constrained to refuse the extradition of this prisoner.

In apprising me of this decision, you did me the honor to inform me that your Government, while refusing as a general principle the extradition of persons within the limits of its jurisdiction and under the protection of its laws, to be tried according to an altogether different system of jurisprudence, had nevertheless, even before the repetition of my request, in consideration of the special circumstances of the case, commenced a re-examination of the possibility, in the absence of an extradition treaty, to surrender Vogt, alias Stupp, to the Belgian authorities without an infraction of the laws of the United States. This spontaneous effort to supply in this case the deficiency of our international treaties, gives evidence of an earnest and sincere desire to accomplish this result, and of a friendly disposition for which I desire, Mr. Secretary of State, hereby to express the equally earnest and sincere thanks of the government of the King.

According to information, which I have reason to believe correct, the German government has also asked for the extradition of Vogt, alias Stupp. I think it proper for me to state, in this connection, that the government of the King, in case of Vogt's being brought before the German courts, renounces its own jurisdiction over the prisoner as regards the crimes for which he would there be tried, and would be glad to see justice take its course at Berlin, since it (the government of the King) is necessarily estopped in Belgium.

The justness of the rule of which I am reminded in the last paragraph of your aforesaid note is incontestable and uncontested, I think; but permit me to say that my intention was by no means to comment upon, still less to criticise, the confidential correspondence of the Attorney General, to which I incidentally alluded, the fact having become one of public notoriety through the newspapers of the country, in the desire to explain, to excuse even, if necessary, the reiterated and pressing request which it induced me to make, in view of the imminent liberation of the prisoner.

I have, &c.,

MAURICE DELFOSSE.

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No. 26.

Mr. Delfosse to Mr. Fish.

[Translation.]

LEGATION OF BELGIUM,
Washington, August 2, 1873. (Received August 4.)

Mr. SECRETARY OF STATE: The ill-success of all the efforts recently made in a notable case to bring to justice an individual who has been accused of the threefold crime of assassination, arson, and robbery in Belgium, and has taken refuge in the United States, the impunity which is definitely assured to him, are grave and regrettable consequences of the absence of an extradition treaty between the two countries, and have rendered yet stronger the desire, formerly evinced by the government of the King, to arrive at a conclusive arrangement upon this subject.

The negotiations initiated for this purpose in 1868 failed because of the clause introduced by Belgium, stipulating for the two countries the reciprocal exception of their natives, (nationaux.)

The Belgium negotiator showed that he was imperatively bound, upon this point, by the absolute provisions of Belgium law, which forbids ever delivering up a Belgian, and that the national sentiment, according in this respect with nearly all the countries on the continent of Europe, did not allow any allusion as to the possibility of a modification of that law; so much the more, he represented, that in refusing to deliver up a Belgian he was still not wrested from justice, for the rights of justice remained protected in their full exercise by the law of 1836, which authorizes the prosecution in Belgium of a Belgian who has committed a crime in a foreign country, *if he is there*, (in Belgium.)

The United States, on their side, rejected the clause of exception in the interests of justice, inasmuch as the fundamental law not permitting the prosecution before the tribunals of the United States of persons accused of crimes committed abroad, it would result from the clause of exception that Americans accused of crimes committed in Belgium would escape from justice on returning to the United States. But the fundamental law does not seem to have such an absolute intent, according to the tenor of a decision recently rendered by the United States circuit court of the southern district of New York. In fact, this court cites a number of laws and special statutes which precisely sanction the principle of the jurisdiction of American courts over crimes committed in foreign countries. Besides, however this may be, the *insertion* of the clause of exception in the treaty which Belgium desires, is evidently not at all incompatible in itself with the fundamental law, for this clause exists in a large number of treaties concluded by the United States. According to the enumeration which appears in the decision above mentioned of the United States circuit court of New York, out of seventeen treaties of extradition *seven* contain it, and the others do not contain any expressed reservation to the contrary on this point. And it is pertinent to remark here that at the very time when Belgium saw its negotiations upon this question fail, the United States concluded their treaty of naturalization with the North German Confederation, in which, far from seizing the occasion to return to a principle from which they declared to us they never would depart, they, on the contrary, confirmed and sanctioned anew the *exception respecting natives* in extending to all the states forming a part of that Confederation the convention of June 16, 1852, between the United States and Prussia, of

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which Article III states: "Neither of the two contracting parties shall be bound to deliver up its own citizens or subjects."

Belgium and other countries, also Germany, Italy, Denmark, a short time ago concluded extradition treaties, in which the clause excepting natives appears, with Great Britain, of which the institutions of justice have so much analogy with those of the United States, and which is willing, like them, to deliver up her subjects.

In short, the Belgian law, on the one side, absolutely prohibits the extradition of a Belgian. On the other side, a treaty containing the clause of exception respecting natives is not *impossible* before the terms of the law of the United States.

In this state of affairs, which leaves it a liberty of action that the government of Belgium does not possess, will the Government of the United States maintain inflexibly an objection which prevents every arrangement respecting extradition between the two countries to the great detriment of the respectable interests which would obtain from it the protection and security which they have the right to claim? And would the real interests of justice be better consulted by this regrettable effect of a doctrine which, with a view of obtaining eventually for it jurisdiction over a certain category of cases, (which will remain, according to the best founded probabilities, comparatively rare,) would voluntarily and indefinitely leave it in the state of absolute impotence in which she now finds herself, against all the criminals that have taken refuge from one country in the other?

At all events, the government of the King believes that it would fail in an imperative duty if it neglected to make a fresh effort to effect between Belgium and the United States the conclusion of a convention of extradition containing at least what *is possible* within the limits of what legislation in force in the two countries, respectively, permits and prohibits, and I have consequently been charged, Mr. Secretary of State, in presenting to you the preceding considerations, to make immediate overtures to that end. The government of the King is pleased to hope that they will be so much the better received as the recent impossibility of delivering up to Belgium the individual who is there accused at once of assassination, arson, and robbery has been the subject of deep regret expressed by the Federal Government, which surely shares with the government of the King a sincere desire to put an end, by every means practicable, to the absolute impunity which at this moment reigns—an immoral and dangerous encouragement to crime in the two countries.

I have, &c.,

MAURICE DELFOSSE.

No. 27.

Mr. Fish to Mr. Delfosse.

DEPARTMENT OF STATE,
Washington, August 11, 1873.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, informing me that you are instructed to renew the negotiations for an extradition treaty which were terminated in 1868 by the refusal of your government to enter into a convention of complete reciprocity in this respect.

The objection then urged by the King's minister was understood to be

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founded upon a provision of Belgian law which Parliament had and still has the power to repeal.

But the policy of the United States was founded upon a provision of the Constitution of the United States, which Congress cannot repeal or violate, which gives to every person accused of crime the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed.

A provision in a treaty permitting one power to refuse to surrender to the other one of its own citizens for trial for an offense committed within the jurisdiction of the latter, must therefore operate to the prejudice of the United States, and be without the complete reciprocity which ought to characterize international agreements.

It is true that some of the treaties of the United States do contain this provision; but it was hoped that the enlightened government of Belgium would, after the experience of the beneficial working of extradition treaties, and especially the recent experience demonstrating their necessity, be willing to follow the liberal examples of more recent treaties.

I regret to hear that your government feels itself forced to adhere to its former position. In so far as you attempt to draw support to it from the recent action of an inferior tribunal in this country, I deem it proper to say that the laws did not afford an opportunity to invite a revision of the action of the court in that case by a higher tribunal. Had there been such an opportunity the President entertains little doubt that the decision would have been reversed, and the course of reasoning upon which it was founded, and to which you refer, would have been shown to be erroneous.

The alternative which your government presents is whether we shall make a partial arrangement for protection against crime or none at all. The President has deemed it his duty to waive his objections against the partial agreement, in the hope that your government may be willing hereafter to extend any arrangement which may now be entered into, so as to become truly reciprocal.

I have, therefore, the honor to inclose for your consideration the draft of a convention framed in accordance with the principles contended for by your government. The President will be willing to submit such a treaty to the Senate for its approval and ratification.

Accept, &c.,

HAMILTON FISH.

VI.—BRAZIL.

No. 28.

Mr. Shannon to Mr. Fish.

No. 82.] UNITED STATES LEGATION,
Rio de Janeiro, October 23, 1872. (Received Nov. 20.)

SIR: Notwithstanding the rumors very generally entertained to the contrary, and to which I referred in my No. 79, it now seems more than probable that the special mission of General Mitre, Argentine envoy to this court, will have an early and successful issue. In this connection, I have the honor to call your attention to the accompanying notes (to

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which I have added, for convenience' sake, marginal translations) recently exchanged between the Brazilian minister of foreign affairs and the Argentine minister of foreign affairs and General Mitre. (Appendix A.) These notes were published simultaneously here and in Buenos Ayres about a fortnight since.

It will be observed, by an examination of the dates, that General Mitre, up to the beginning of the present month, has occupied himself exclusively with the task of removing, so far as it was possible for him to do so, the bad impression which had been created here by the extraordinary tone of the celebrated Tejedor note of the 27th of April last, and of which Mr. Partridge gave an account in his No. 59. The first note of the series from the Argentine minister of foreign affairs, to the Brazilian minister of foreign affairs, dated September 25, 1872, is the apology for that extraordinary tone; and, together with the response of the Brazilian minister of foreign affairs, (second of the series,) closes this branch of the subject.

In the third of the series, dated October 3, 1872, General Mitre gives a succinct account of his mission from date of his arrival at Rio de Janeiro, on the 6th of July last, to date of writing; congratulates himself upon the satisfactory solution of the "question of form;" and concludes by stating that he shall henceforward occupy himself with the chief object of his mission, requesting, at the same time, that a plenipotentiary may be designated with whom he can negotiate. This "chief object" he also declares to be, "treating fully all pending questions until a perfect agreement is reached." The Brazilian minister of foreign affairs, in the second of the series of notes, had already defined it to be "the most perfect understanding or best agreement between the two governments upon the rights and obligations of the treaty of alliance of the 1st of May, 1865."

In the fourth of the series, dated October 9, 1872, the Brazilian minister of foreign affairs, responding to General Mitre, designates the Viscount of Sáo Vicénte as the Brazilian plenipotentiary to negotiate with General Mitre.

The basis and point of departure of this negotiation, we are told, is to be the agreement arranged between Baron de Cotegipe and the Argentine minister of foreign affairs, and drawn up by the former. Appendix B to this dispatch, being the translation of an extract from the letter of Baron de Cotegipe, addressed to the Brazilian minister of foreign affairs on the 25th of June last, and giving an account of his negotiations at Assumption and Buenos Ayres, will show exactly what that "agreement" was.

In conclusion, it may be well to state that assurances have been given me by members of the Argentine legation that they confidently expect to complete the work of their mission so as to leave here some time during the month of December next.

I am, &c.,

RICHARD CUTTS SHANNON.

[Appendix A.—Translation.]

[Extract from the Republica of Rio de Janeiro, October 7, 1872.]

Note from the Argentine government to the imperial government.

DEPARTMENT OF FOREIGN AFFAIRS OF THE ARGENTINE REPUBLIC,
Buenos Ayres, September 25, 1872.

MR. MINISTER: I have had the honor to receive the notes of your excellency of the 20th and 21st of June, and the memorandum which accompanied them.

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In the note of June 20, your excellency said that notwithstanding the first "impression created by certain observations, which might seem international offenses, considering that the Argentine government had declared in the note of 27th of April that it had used the greatest frankness, and that therefore its protests of pacific and friendly sentiments should have the same character, the imperial government resolved to answer it, influenced by those declarations, and especially by those which were most solemnly expressed by His Majesty the Emperor of Brazil, and His Excellency the President of the Argentine Republic, in their recent addresses to their respective nations."

The imperial government does justice to the republic in giving to the language and views of the note of the 27th of April the only interpretation compatible with the frank protests of pacific and friendly sentiments which are contained in it, and which it is gratifying to repeat on this occasion, since there was no intention to offend the *amour propre* and dignity of Brazil, but rather a desire to maintain the inviolability of the treaty of alliance, in which is involved the public faith of three nations.

The Argentine government, rendering equal justice to that of the empire, interpreted in the same spirit certain propositions, contained in the above-mentioned note of the 20th of June, which might have a less friendly meaning, (if not offensive, at least, would seem contrary to the duties and obligations of the alliance,) and renders on her part due honor to the protests of friendship and the assurances which have been given to maintain the compromises of the treaty of the 1st of May.

The Argentine government therefore believes that, having made the requisite declarations on both sides, there is no convenience in prolonging a discussion which might postpone a cordial understanding such as ought to subsist between allies who have fought side by side for five years to secure peace in these regions, all of them (allies) being equally interested in maintaining those compromises to the end that there may be a fruitful and lasting peace.

This consideration, and that of having resolved before the reception of the above-mentioned notes to send to the imperial government a minister of high character and armed with full powers to adjust pending questions, induces the Argentine government to limit its reply to what is here expressed, referring for the rest to what that minister may have declared or may hereafter declare in its name.

The Argentine government thinks that with the transference of the discussion to the arena of diplomacy it will be easier to maintain those cordial relations which might be endangered by a direct exchange of notes. Such notes, unexplained, might go beyond the benevolent intentions of both governments.

I improve the opportunity to reiterate to your excellency the assurances of my highest consideration.

C. TEJEDOR.

To his excellency the councilor Dr. MANOEL FRANCISCO CORREIA,
Minister of Foreign Affairs of the Empire of Brazil.

[Extract from the Republica of Rio de Janeiro, October 7, 1872.]

[Translation.]

Note from the imperial government to the Argentine government.

RIO DE JANEIRO, DEPARTMENT OF FOREIGN AFFAIRS,
October 2, 1872.

The undersigned, of the council of His Majesty the Emperor, minister and secretary of state for foreign affairs, has had the honor to receive the note which His Excellency D. Carlos Tejedor, minister of foreign affairs of the Argentine Republic, directed to him, under date of 25th ultimo, in reply to those of the imperial government of the 20th and 21st of July last. The minister says:

"The imperial government does justice to the republic in giving to the language and views of the note of the 27th of April the only interpretation compatible with the frank protests of pacific and friendly sentiments which are contained in it, and which it is gratifying to repeat on this occasion, since there was no intention to offend the *amour propre* and dignity of Brazil, but rather a desire to maintain the inviolability of the treaty of alliance in which is involved the public faith of three nations.

"The Argentine government, rendering equal justice to that of the empire, interpreted in the same spirit certain propositions, contained in the above-mentioned note of the 20th of June, which might have a less friendly meaning, (if not offensive, at least would seem contrary to the duties and obligations of the alliance,) and renders on her part due honor to the protests of friendship and the assurances which have been given to maintain the compromises of the treaty of the 1st of May.

"The Argentine government, therefore, believes that, having made the requisite declarations on both sides, there is no convenience in prolonging a discussion which might

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postpone a cordial understanding, such as ought to subsist between allies who have fought side by side five years to secure peace in these regions; all of them (allies) being equally interested in maintaining those compromises to the end that there may be a fruitful and lasting peace.

"This consideration, and that of having resolved, before the reception of the above-mentioned notes, to send to the imperial government a minister of high character, and armed with full powers to adjust pending questions, induces the Argentine government to limit its reply to what is here expressed, referring for the rest to what that minister may have declared or may hereafter declare in its name.

"The Argentine government thinks that with the transference of the discussion to the arena of diplomacy it will be easier to maintain those cordial relations which might be endangered by a direct exchange of notes. Such notes, unexplained, might go beyond the benevolent intentions of both governments."

With satisfaction the undersigned has received the assurance of the minister that the note of the 27th of April contained no intentional offense to the *amour propre* and dignity of Brazil, and has also observed the renewed expression of pacific and friendly sentiments of the government of the republic.

Although convinced that his previous notes contain no expression of opinion which will permit one to doubt that like sentiments of consideration and friendship are entertained by this government for the Argentine Republic, and notwithstanding he believes it has already been sufficiently proved that the imperial government desires to maintain the alliance which guarantees so many benefits to the two governments and to their neighbors, nevertheless the undersigned does not hesitate to renew here the expression of those same friendly declarations contained in previous notes.

It is agreeable to the undersigned, as well as Señhor Tejedor, to consider the present notes as closing the direct correspondence between the two governments, and to confide to the good will and prudence of plenipotentiaries whatever explanations may still be judged necessary, while at the same time they treat of the principal object of their mission, which will be the most perfect understanding or best agreement between the two governments upon the rights and obligations of the treaty of alliance of the 1st of May, 1865.

The undersigned has the honor to renew to the minister the assurances of his most distinguished consideration.

MANOEL FRANCISCO CORREIA.

To His Excellency Sr. D. CARLOS TEJEDOR,
Minister of Foreign Affairs of the Argentine Republic.

[Extract from the Jornal de Commercio of Rio de Janeiro, October 9, 1872.]

[Translation.]

No. 1.

Note from the Argentine legation to the imperial government.

ARGENTINE LEGATION IN BRAZIL,
Rio de Janeiro, October 3, 1872.

MR. MINISTER: Having arrived at this capital on the 6th of July, and presented my credentials on the 9th, I had the honor of being received by His Majesty the Emperor on the 13th of the same month, being at once accredited and recognized in the quality of envoy extraordinary and minister plenipotentiary on special mission to the imperial government.

Upon my arrival at this capital, I found already answered, under date of the 20th of June, the notes which the Argentine government directed to the imperial government on the 27th of April. Thus the direct discussion of government with government was still going on; and so we concluded to await the reply of the Argentine government before entering upon the object of my mission.

The reply of the Argentine government reached the hands of your excellency direct on the 26th of July, and it having given place to some verbal explanations it was necessary to ask for new instructions in order to resolve this incident, which arose in a confidential and friendly manner as a question of form which was to be adjusted between the two governments through the medium of the undersigned.

This question of form was satisfactorily arranged by the exchange of notes which were verified yesterday upon the basis of a common agreement and reciprocity, not only as respects the framing of said notes, but also as regards the mutual friendly explanations therein contained. And so cordial relations were happily and honorably re-established between both governments, not only as respects international duties, but also as regards the rights and obligations of the alliance of the 1st of May, 1865, of which

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Brazil and the Argentine Republic make part conjointly with the Oriental Republic of Uruguay.

Thus the direct discussions of government with government having terminated, and your excellency having accepted the proposal to transfer it to the arena of diplomacy, agreeing also to refer further negotiations to plenipotentiaries who shall enter upon them "in the spirit of the most perfect understanding and best agreement between the two governments about the rights and obligations of the alliance of 1865," the time has arrived to treat formally of the object of my special mission.

Having received from your excellency, in the course of our private conferences, testimonials of the most cordial friendship and assurances of an accord mutually satisfactory and honorable, based upon the agreement settled between the minister of foreign affairs of the republic and Baron de Cotegipe, and drawn up by the former—said agreement to be taken simply as a point of departure for subsequent negotiations—I trust that the object of my mission will be accomplished in such a manner that, in peace as in war, the compromises of the alliance will be observed, thus securing peace throughout this portion of America, and making even Paraguay a sharer in its benefits.

Thus officially reviewing what has passed, and proposing to your excellency to occupy myself henceforward with the special object of my mission, treating fully all pending questions until a perfect agreement is reached, I hope your excellency will be good enough to indicate the day and hour when we can have a conference, or will designate the plenipotentiary with whom I shall negotiate for the future.

With this view I salute his excellency the minister, repeating the assurances of my highest consideration.

BARTOLOMÉ MITRE.

To his excellency MANOEL FRANCISCO CORREIA,
Minister of Foreign Affairs of His Majesty the Emperor of Brazil, Councilor, &c., &c., &c.

[Extract from the Jornal de Commercio of Rio, October 9, 1872.]

No. 2.

Note from the imperial government to the Argentine legation.

RIO DE JANEIRO, DEPARTMENT OF FOREIGN AFFAIRS,
October 7, 1872.

The undersigned, of the council of His Majesty the Emperor, and minister and secretary of state for foreign affairs, has the honor to respond to the note of the 3d instant, which was directed to him by His Excellency Brigadier General D. Bartolomé Mitre, envoy extraordinary and plenipotentiary on special mission from the Argentine Republic.

As Señor Mitre knows, the only obstacle which delayed the progress of the negotiation, committed on the part of the republic to his excellency, was the state of affairs resulting from the direct discussion between the two governments, which could not be regarded as final with the Argentine note of the 27th April and that of the imperial government of the 20th June.

The impression produced by the note of the 27th of April having been dispelled by that of the 25th of last month, the same friendly spirit being manifest in the general thought of the official documents of the Argentine department of foreign affairs, the benevolent relations of the two governments have been honorably and cordially re-established.

Thus, happily, the opportunity presents itself for the imperial government to hear the proposition for an agreement, which the wisdom of the Argentine government had suggested, in view of the official declarations which had been directed to it; and the undersigned takes pleasure in confirming what he said, not only in the notes of the 22d of March and the 20th of June, but also in the private conferences with Señor Mitre, giving testimony that the imperial government never thought of violating the alliance of 1865, but rather sought always to maintain it without the least break, and in such a way that it might prove as honorable and beneficent in peace as it had been during war.

The undersigned has expressed, since the note of the 20th of June, that the basis of agreement proposed by the minister of foreign affairs of the Argentine Republic to Baron Cotegipe was acceptable, and, in fact, was not prejudiced by any act of the imperial government. If, then, this point of departure, which could not be declined by Brazil, since it related to the substance of the treaties celebrated by that government, promises, as Señor Mitre believes, the satisfactory solution which both governments desire, the imperial government accepts with great pleasure the way indicated by his

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excellency as proper for facilitating a prompt and happy issue to his mission, although it would seem more convenient that at this negotiation the third ally should be present, and that previously, not at the same time, Paraguay should be heard.

The undersigned, reiterating the assurance already expressed, of the pacific, just, and friendly dispositions of the imperial government, takes pleasure in communicating to Señor Mitre that His Majesty the Emperor has seen fit to appoint the Viscount of São Vicente as his plenipotentiary for this negotiation.

The Brazilian plenipotentiary will shortly invite the Argentine plenipotentiary to open the conferences, from which both nations ought to hope for the maintenance of such a cordial understanding as corresponds with their antecedents and is loudly demanded, not only by their own mutual interests, but also by those of the civilized world.

The undersigned improves the opportunity to reiterate to the señor minister the assurances of his highest consideration.

MANOEL FRANCISCO CORREIA.

To His Excellency Brigadier General BARTOLOMÉ MITRE,
Envoy Extraordinary and Minister Plenipotentiary
on Special Mission from the Argentine Republic.

[Appendix B.—Translation.]

[Extract from the letter of Baron de Cotegipe—giving an account of his negotiations at Assumption and Buenos Ayres—addressed to the Brazilian minister of foreign affairs, on the 25th of June, 1872.]

* * * * * * *

The terms of the conciliatory agreement, written by me, read and approved by Dr. Tejedor, were these:

"That Brazil should declare, in reply to the note of the Argentine Republic, that it acknowledged the obligations of the treaty of alliance and is disposed to give the guarantees which it offers. This done, the Argentine government will send a negotiator to Paraguay, who afterward should go to Brazil to reduce to protocol the declarations of the note. These declarations made, there is no objection to the ratification of the treaties."

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No. 29.

Mr. Shannon to Mr. Fish.

[Extract.]

No. 85.] UNITED STATES LEGATION,
Rio de Janeiro, November 25, 1872. (Rec'd Dec. 21.)

SIR: Excepting a new interest in the Argentine question, natural result of the convention signed on the 19th instant, public attention here has of late been mainly directed to the preliminary sessions of the legislative chambers, which will be formally opened on the 1st day of next month with the usual ceremonies, provided a quorum of members are present in the capital on that day. It seems to be the general opinion that the session will be a stormy one.

There have been several changes recently in the foreign diplomatic corps on service here.

M. Axel de Berends has arrived, in the quality of secretary of the Russian legation.

D. Mariano Reys Cardona, in the quality of envoy extraordinary and minister plenipotentiary of Bolivia near this court, (with the secretary of legation, Señor Sabino Capriles,) arrived here on the 18th of October, and received audience of His Majesty for the presentation of his credentials on the 26th of October.

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Count Solms, the German minister resident, having received permission from his government to retire from this court, sailed for Europe on the 2d instant, and it is said that he will not return. The consul-general has been left in charge of the legation.

* * * * * * *

Extensive repairs having been completed on the flag-ship Lancaster, I am advised by Rear-Admiral Taylor that she will go to sea to-day, on a cruise to the river.

I am, &c.,

RICHARD CUTTS SHANNON.

No. 30.

Mr. Partridge to Mr. Fish.

[Extract.]

No. 89.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janciro, Dec.* 20, 1872. (Rec'd Feb. 24, 1873.)

SIR: Appendix A to No. 84 (Mr. Shannon's) contains the bases of the treaty between Brazil and the Argentine Republic on the 19th November, which has since been ratified by both parties. General Mitre still remains in Rio, but informed me that, having finished everything, he would shortly return to Buenos Ayres.

In that treaty it was stipulated that the Oriental Republic (Uruguay) should be invited to accede to the provisions therein stipulated as to the relations of the allies to Paraguay. This invitation has been accepted by Uruguay, and that government records its adhesion in a note of the minister of foreign relations, at Montevideo, of the 9th December, 1872, addressed to the Brazilian minister of foreign affairs, which has been published here.

The members of the chambers having been in preparatory "junta" since the 1st of December, during which time they have been engaged in verifying the elections of the members returned, and in endeavoring to ascertain (depending upon the result) to which party they belong, announced a *quorum* in each house on the 18th, and on the 21st the session was formally opened by the Emperor in a speech from the throne, of which a translation (abstract) is annexed with a copy.

It will be seen that nothing is really recommended; certain subjects and matters are mentioned, and the attention of the chambers is invited thereto.

* * * * * * *

Until this great point is settled, nothing will really be done.

The Emperor and court are expected up here in few days. Most of the foreign ministers have been here some time.

I am, &c.,

JAMES R. PARTRIDGE.

[Appendix No. 1.—Translation.]

Abstract of the speech from the throne, at the opening of the Brazilian chambers, December 21, 1872.

1. Expresses satisfaction at re-assembly of the chambers.
2. Empire at peace within and without; good health of the country.

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3. Peace with all nations, which is a guarantee of our commercial relations.
4. Misunderstanding between Brazil and Argentine Republic arranged by a joint convention, signed 19th November.
5. Extradition treaties made with the Argentine Republic, Portugal, Italy, and Great Britain.
6. Increase of public revenue; excess of receipts over expenses.
7. Permitting the continuance of improvements, public education, and colonization.
8. Contract jointly with Portugal for laying telegraphic cable between Europe and Brazil; urging importance of constructing a coast line to connect with it.
9. Reforms demanded in laws touching the elections, the national guard, and the system of recruiting.
10. Regrets the abuses under the existing election laws, which, however, are due to national habits which time will remove.
11. This removal to be secured by strict observance of law regulating polling-places, and which is not only important to majorities, but to minorities, who are deprived of any actual representation.
12. National guard, as auxiliary to army, has rendered important services, often as police force. This, however, is inconsistent with its character and ordinary obligations, and cannot be continued without prejudice to the institution.
13. The law of recruitment causes continued complaints. This could not be different under its unequal operation and hard consequences, and as long as a proper enlistment law, designating those citizens liable to bear arms, is wanting. Since there is sensitiveness on the subject of personal liberty, and since the inconveniences of the present system of military organization are severely felt, you will doubtless consider its reform most urgent.
14. Formal conclusion.

No. 31.

Mr. Partridge to Mr. Fish.

No. 92.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, Jan.* 20, 1873. (Rec'd Feb. 24.)

SIR: The year 1872, just ended, has been one of great prosperity for Brazil. The continued advance in the value of her chief crop (coffee) has created an abundance of money, under which there is great activity in new undertakings. So prosperous has been the trade of the country, and so large the receipts at her custom-houses, that the paper money of the empire (the only circulating medium) is now at 26½ pence sterling to the milreis, whose par in gold is 27 pence. So that this paper money, amounting in all to Rs189,000,000, ($102,060,000 United States,) including the notes of the Bank of Brazil for Rs39,000,000, ($21,000,000,) is now only about 2 per cent. below its par gold value.

The treasury of the imperial government shows, for the first time, a small surplus over expenditures; and the chambers have just passed a law for increase of their own pay, and that of the army and navy, the amount of which will consume far more than that surplus.

This leaves little hope for any material reduction of duties on imports, which the government had named a commission to examine and report on. This commission, I had hoped, would recommend a reduction of duty on certain articles, chiefly the products of the United States, (such as flour, kerosene, and lumber,) in return for the abolition of our duty on coffee, by which Brazilian planters profited so much.

In conversations with Mr. Correia, here, I have endeavored to impress upon him, not only the propriety and justice of such concessions, but have asserted that under an increased consumption of our exports their treasury would receive a larger revenue from a smaller impost. But the action of the chambers, I fear, has postponed the chance of success.

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I will not, however, cease to renew those representations, which would have been almost sure of success could we have allowed our abolition of the duty on coffee to take effect, on notice of some such corresponding liberality on the part of Brazil with regard to our own exports.

The duration of the present ministry is still uncertain; but it is not improbable that the Viscount de Rio Branco will remain even after some changes in the cabinet, which has already twice before prolonged its power by such modifications.

In case he goes out, his successor would probably be the Baron Cotejipe, who preceded him.

I have, &c.,

JAMES R. PARTRIDGE.

No. 32.

Mr. Partridge to Mr. Fish.

No. 93.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio Janeiro, Jan.* 22, 1873. (Rec'd Feb. 24.)

SIR: I have the honor to transmit in this mail the report of the Brazilian department of foreign affairs presented to the General Legislative Assembly (first session fifteenth legislature) on the 24th December, 1872.

It contains (pp. 8 and 81) the terms of the convention between Brazil and the Argentine Republic of 19th November, (see No. 84,) and the answer of Brazil (p. 102) to the reclamations of Bolivia against that convention, (on the ground that the question between Bolivia and the Argentines as to the ownership of the "Gran Chaco" was prejudged thereby;) that Brazil took no part in that question, the settlement of which pertained to the Argentine Confederation, Bolivia, and Paraguay, all of which countries claimed that territory.

It notices the letters of thanks addressed by the United States and Great Britain, respectively, to Brazil, acknowledging the services of the Brazilian arbiter at Geneva, gives account of the extradition treaties made with Portugal, Italy, and Great Britain, and the surrender of one Moos, a Frenchman—notwithstanding the non-existence of such a treaty with—to France, and his having claimed German protection as an Alsatian.

The present consular conventions with France, Switzerland, Italy, Spain, and Portugal are to terminate 20th August, 1873, as I have already advised in my No. 65. No new negotiations are yet begun with those powers, but are now proceeding for one with Great Britain.

The boundaries agreed on with Peru, Bolivia, Venezuela, Paraguay, are being marked by monuments.

Brazil declines to pay Denmark the quota assigned her by the convention of 14th March, 1857, (in which she had no part,) for the capitalization and abolition of the sound dues.

The Brazilo-Paraguayan mixed commission to ascertain the indebtedness of Paraguay for indemnities to Brazilian subjects, for damages, &c., during the war, has been appointed and probably begun its sessions at Asuncion.

It will be interesting to know the amount which will thus be declared

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due by Paraguay—a sum, in any event, probably far beyond her ability to meet.

The British minister here is endeavoring to arrange for an Anglo-Brazilian commission to decide upon claims of the subjects of each of those countries against the other. The difficulty hitherto has been to admit the demand of Brazil, that the condemnation of certain Brazilian vessels by English commissions or courts, under what was known as the "Aberdeen" act, and other acts of Parliament, in virtue of which vessels taken (even in Brazilian ports in some cases) were declared good prize, as slavers, under the Anglo-Brazilian treaty for the suppression of the slave-trade, shall still be subject to re-examination, and that Brazilian claims for such vessels shall be admitted to adjudication.

I have, &c.,

JAMES R. PARTRIDGE.

No. 33.

Mr. Partridge to Mr. Fish.

[Extract.]

No. 96.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, Feb.* 3, 1873. (Rec'd March 5.)

SIR: An English steamer to New York, direct, enables me to inform you that on the 28th January there was a change, or rather modification, in the Brazilian ministry. Mr. Barreto, the minister of agriculture, gives place to Mr. Costa Pereira, both being conservatives. The Councillor Correia, minister of foreign affairs, retires, and Viscount de Caravellas succeeds him. The new minister is a senator, was formerly member of a liberal ministry, and has always been considered, and is still called, a liberal, although as senator he opposed the emancipation act of September, 1871.

The present ministry is conservative, yet upheld and enacted that law.

* * * * * * *

The President's message to Congress has been very favorably commented on here. They are especially pleased with the interest manifested in the settlement of the difficulty between Brazil and the Argentines, and with his approval of the recommendation by the Postmaster-General for a semi-monthly postal service between the United States and Brazil.

I have, &c.,

JAMES R. PARTRIDGE.

No. 34.

Mr. Partridge to Mr. Fish.

No. 98.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, Feb.* 22, 1873. (Rec'd Mar. 21.)

SIR: The Brazilian chambers have not yet, after three months' session, and during the summer-heats, got through with the discussion of

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the reply to the speech from the throne. The vote on this amounts usually to a vote of confidence in the ministry. Numerous changes of opinion among the deputies, and even of senators, are announced; and the discussion of a new fundamental law, or rather amendment to their constitution, making all elections *direct* by the people, (instead of through electoral colleges,) is said to show still further changes, and a majority even of senators in its favor.

The Viscount Rio Branco, president of the council, who is supposed also to represent the wishes of the Emperor, is opposed to this change. From the journals, and the position of those senators and deputies who advocate it, this change seems to be called for by the country; the scenes at the late general elections in August having called attention to great abuses.

I regret to say that the yellow fever is very prevalent at Rio, where there has been no rain for some weeks; and even in this place heat quite unusual, (85°) has prevailed.

I am, &c.,

JAMES R. PARTRIDGE.

No. 35.

Mr. Partridge to Mr. Fish.

No. 102.] UNITED STATES LEGATION,

(*Petropolis,*) *Rio de Janeiro, March* 24, 1873. (Rec'd May 21.)

SIR: Of the whole amounts of receipts into the Brazilian treasury, about forty-nine millions of dollars, (97,000 contos of reis,*) about 15,000 contos of reis (seven and a half millions of dollars) are derived from an *export duty* on all articles and produce shipped from the empire. This duty is assessed at 9 per cent. on their custom-house valuation, and, with the provincial export tax, 4 per cent., added, amounts to 13 per cent.

Inasmuch as the exports from Brazil to the United States (coffee, sugar, rubber, rosewood, hides, &c.) amount to between thirty-one and thirty-two millions of dollars annually, it follows that of this amount, the export duty being included in the cost on board,) about $3,536,000 are paid for imperial and provincial export dues, of which $2,448,000 or about 32 per cent. of the whole) is imperial export duty, levied by Brazil, and arises from *exports to the United States* alone.

The receipts from duties on *imports* are estimated in the budget at about 54,000 contos of reis, or about twenty-seven millions of dollars.

Brazil takes from us annually only between six and seven million dollars in value. It is not so easy to calculate what proportion of their receipts from import duty is received from such importations, (from the United States.) But the import dues on certain articles, which come exclusively from the United States, are (by reason of the exaggerated *pauta* or custom-house valuation) enormous, as the following examples will show:

Kerosene costs per gallon in the United States from 19 to 24 cents.†

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* For 1873–'74 estimated receipts fifty millions, of which nine and a half from export duties.

† In cans and boxed for exportation.

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The duty here on kerosene amounts to Rs 5||080 ($2.70) per box of 10 gallons, or 27 cents per gallon, which is 130 per cent. on its present cost in the United States.

Rosin costs in the United States about $3.50 to $3.70 per barrel. The duty in Brazil on rosin is about $1.50 per barrel, or 44 per cent.

Pitch in the United States costs about $4.50 per barrel. The duty in Brazil is about $1.85, or nearly 41 per cent. Lard costs in the United States about 9 to 10 cents. The duty in Brazil is 80 reis per pound, 4½ cents, or 45 per cent. The duty in Brazil on spirits of turpentine is Rs 2||490 per box of 10 gallons, or about 40 per cent. of first cost.

The duty on flour is about 68 cents per barrel, costing about $8, or only about 8½ per cent. on cost.

Perhaps it would not be an exaggeration to say that on these six or seven millions Brazil levies two millions of dollars duties.

On the other hand, the United States admit free of all duty almost all articles (coffee, rubber, hides, &c.) to the amount of thirty millions of dollars, brought from Brazil, and, with the exception of sugar, of which we receive, perhaps, one million in value, and of wool, of which a small amount comes occasionally from Rio Grande do Sul.

These facts seem to make out a strong argument for the reduction, at least, of these enormous duties exacted by Brazil on our commerce; and I have not failed to present them to the Viscount de Caravellas, in the hope that he may give them the proper direction and effect in the amended tariff to be proposed to the chambers. These facts also show, I think, that we acted with undue liberality, and perhaps too precipitately, in taking off the moderate duty of 3 cents a pound on coffee, or $4.80 a bag, and of which we receive nearly a million and a half bags from Brazil, thus giving up over seven millions of revenue, the benefit of which surrender accrued directly to the producers of coffee, which, instantly on the receipt of that news, went up to that extent nearly in price, and has not since receded.

Of the carrying trade between the United States and Brazil we at present, unfortunately, have only about 33 per cent., or one-third in American vessels, as explained in my No. 18, but Brazil has no share in this.

I am, &c.,

JAMES R. PARTRIDGE.

No. 36.

Mr. Partridge to Mr. Fish.

No. 107.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, April* 23, 1873. (Rec'd May 21.)

SIR: The yellow fever has not yet entirely disappeared from Rio where, a day or two since, I found the weather still warm, even after a week of cooler temperature which had much diminished the mortality There are but few cases, however, now, in comparison with what ha been, and it may be hoped that in a fortnight it will have disappeared

The senate still continues its sessions, but the house of deputies ha adjourned until the 29th of April, when the session will close, and a nev one be opened on the 3d of May. By this ingenious mode the member of both bodies have contrived to double their allowance for the presen

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year, the pay being, senators $4,500, and deputies $3,000, per session, of which there is ordinarily only one each year, lasting from May till September.

At a late election (20th April) in the city of Rio, for a deputy to fill a vacancy, the government's (Rio Branco) candidate was defeated, and a liberal, Brigadier-General Pinheiro Guimaraes, returned. This is hailed by the extreme conservatives with peculiar delight, as the city of Rio has almost always elected men of that party. But, on this occasion, they joined hands with the liberals and republicans to defeat the government.

The Emperor has regained his health, but cannot walk out yet. The princess imperial and her husband (Comte d'En) went to Europe on the French packet of the 17th, to be absent at least eighteen months. In connection with this voyage several rumors have been spread that, finding a difficulty in having permission to go, (from apprehension of any accident to the Emperor's life, whom she is expected by some to succeed,) the princess had declared that, rather than remain, she would abdicate her right of succession in favor of her nephews, the children of her late sister; that her husband was unwilling to return and reside in Brazil; and that she would prefer to remain with him in Europe.

These rumors, or the reasons given, are only noticeable because they show what may be perhaps suspected by the princess and her husband, as well as by others, as likely to occur in such a contingency.

Meantime, "A Republica," a daily newspaper in Rio, after having had its office attacked by a mob, as stated in my No. 99, has resumed its publication. Its language and tone is so extreme, however, that it has not half the hearing given "A Reforma," the liberal journal, which does not yet call itself republican.

The coming crop of coffee (now gathering for market after July 1) is said to be a very short one. There will be no loss, however, in value, for the prices in Rio are higher than ever before. It is remarkable that within the last months the price here has been kept up by the markets in the north of Europe instead of by those in the United States. It is probable that the change from spirit-ration in the Russian army to coffee has a good deal to do with this.

I have, &c.,

JAMES R. PARTRIDGE.

No. 37.

Mr. Partridge to Mr. Fish.

[Extract.]

No. 108.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, April* 24, 1873. (Rec'd May 21.)

SIR: I inclose (annex hereto) a copy of the note which I addressed to Viscount de Caravellas, in relation to the commercial relations between the United States and Brazil, and especially to the very extravagant *pauta* or custom-house valuation here of articles chiefly (some exclusively) from the United States, and on which exaggerated value their heavy duties are calculated.

I have had several interviews and conversations with the Viscount de Caravellas, as with his predecessor, on this matter, calling their atten-

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tion to the great injury thus wrought to our interests. And as a commission is now considering what changes, if any, should be made in the *pauta*, I thought it a convenient opportunity to again show the injustice of the present list.

The statements in the note are based upon the best authorities attainable, and they will be seen to agree with those contained in my No. 102 to the Department. I have endeavored to show, and I think I have demonstrated, the utility to Brazil of this change, as well as its propriety. I wish that I could add that there was satisfactory reason to believe that such changes will be made as would properly answer the liberality of own tariff toward Brazilian products.

One difficulty lies in the fact that this assembly has just increased the pay of everybody, and nearly doubled their own, so that the expected surplus will be prevented.

* * * * * * *

However, no effort of mine shall be wanting to obtain it.

I am, &c.,

JAMES R. PARTRIDGE.

Previous dispatches from this legation relating to the same subject (condition of commerce) Nos. 18, 24, 29, 102.

(Inclosure.)

Mr. Partridge to the Viscount de Cararellas.

LEGATION OF THE UNITED STATES IN BRAZIL,
Petropolis, April 16, 1873.

The undersigned, envoy, &c., of the United States, has the honor to invite the attention of his excellency the Visconde de Caravellas, minister and secretary of state for foreign affairs, to certain facts, and to considerations growing out of them, in relation to the condition of trade and commerce between the United States and Brazil. This has been done with a view to the future development of those interests to the advantage of both countries, and for the purpose of offering certain suggestions, founded on those facts, which the undersigned hopes will be favorably received and acted on by the imperial government.

It is known to his excellency the Visconde de Caravellas that, since the 1st of July 1872, the duty of 3 cents per pound on coffee in the United States has been abolished. The duty, which had only existed since 1861—and which had been reduced in 1866 to 1867 from 5 cents to 3 cents per pound—was imposed by the United States only as a measure of necessity during the war, and the Government embraced the earliest opportunity to abolish it entirely in 1872.

It is hardly necessary for the undersigned to remind the Visconde de Caravellas of the immense advantage accruing to Brazil by reason of this abolition. Of the whole coffee crop of Brazil, nearly one-half—and sometimes three-fifths—is sent to the United States. That country is Brazil's best customer; and from this empire is exported to the United States nearly as much in value as to all other countries combined. The United States thus takes more than one-third (38 per cent.) of the entire exports from Brazil.

These assertions are sustained by the statistics published by the *Relatorios* of the ministry of "*Fazenda;*" by the Associaçaş Commercial of Rio de Janeiro, (1872:) by the Retrospecto Annual of the Jornal do Commercio, (1872;) by the returns to the legation from the United States consulates in Brazil, and by the official statements of imports into the United States.

From the "Relatorio of Fazenda," (1872,) it appears that the amount of the whole exportation from Brazil during the year (October) 1870, (September) 1871 was Rs. 168,018:757‖000, ($84,000,000.)

To the United States, of this amount, according to the consular returns, was shipped produce to the value of Rs. 62,983:525‖740 (over thirty-one millions of dollars) from Brazil.

From the port of Rio de Janeiro alone, during the year January-December, 1872, was shipped to all foreign countries, produce to the value of Rs. 77,043:332‖316;* of which

* Retrospecto do Jornal do Commercio, 1872.

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the amount to the United States alone, and not including the export duty thereon, was Rs. 37,996:634‖480, or nearly one-half.

Of the whole export of coffee from Rio de Janeiro for 1872, (2,011,192 bags,) there went to the United States more than one half, (56¼ per cent.,) or 1,130,680 bags.

In 1871, the proportion of coffee to the United States from Rio was nearly 58 per cent. of the whole export, (1,354,346 bags out of 2,358,001.)

In 1870, it was nearly 62½ per cent. (1,373,654 bags out of 2,209,456,) or more than three-fifths of the whole export of coffee from Rio.

Of the whole import of coffee into the United States from all countries, nearly four-fifths (79 per cent.) is furnished by Brazil. Of this, about 2 per cent. is distributed to other countries, (Mexico, &c.,) showing that, of the coffee *consumed* in the United States, Brazil alone furnishes 77 per cent., or more than three-fourths.

By the abolition of duty on coffee, the United States Treasury gave up a revenue upon a consumption of over three hundred millions of pounds in 1871) of more than $9,000,000, or nearly eighteen thousand contos of reis, (Rs. 18,000:000‖000,) of which nearly seven millions of dollars (more than thirteen thousand contos of reis, Rs. 13,600:000‖000) was paid in 1871 upon coffee brought from Brazil. The abolition of that duty in the United States inured, to that amount, to the benefit of the *fazendeiros* of Brazil, producers of coffee; the price of which in Rio, on reception of the news, went up and has not since receded.

On the annual amount and value of coffee thus exported from Brazil to the United States, the imperial and provincial treasuries levy export duties of (9 and 4) 13 per cent. ad valorem. Thus, by the "Relatorio of the Associação Commercial of Rio de Janeiro for 1872," it appears that the whole value (*valor official*) of the *exports* from that port to *all* foreign countries, from 1st October, 1871, to 1st October, 1872, was Rs. 67,865:172‖258. Of this amount Rs. 37,506:695‖822 (56 per cent.) went to the United States.

The export duty (9 per cent.) on this whole amount to all countries from Rio received into the imperial treasury was Rs. 5,981:494‖046, of which amount Rs. 3,375:602‖623 (58 per cent.) was on the coffee sent to the United States. And the provincial treasury received in addition 4 per cent., amounting to Rs. 1,500:267‖832.

Thus it is shown that on the exports of coffee from Rio, alone, to the United States in 1871-1872, the export duties paid by the purchaser in the United States before embarking said coffee, and in addition to the price paid to the producer, amounted to four thousand eight hundred and seventy-five contos of reis, (Rs. 4,875:000‖000,) nearly two and a half millions of dollars.

On the whole exports from all the ports of Brazil to the United States, and which amount, as stated above, to sixty-two thousand nine hundred and eighty-three contos, five hundred and twenty-five mil, seven hundred and forty reis, (Rs. 62,983:525‖740,) $31,400,000 United States,) the imperial treasury levies an export duty of more than five thousand six hundred contos of reis, making in all, with the provincial duty of 4 per cent. an export duty by Brazil on the commerce to the United States, of more than eight thousand one hundred and eighty-seven contos annually, ($4,093,000 United States.)

Such is the value and such the export dues on the exports from Brazil to the United States, of which the value of coffee from Rio (83 per cent.) and from Santos (2 per cent.) together constitutes the greater portion, (85 per cent.;) and other articles, as India rubber, nuts, &c., from Para, (6 per cent.;) hides, wool, &c., from Rio Grande do Sul, (5 per cent.;) sugar, &c., Pernambuco, (2 per cent.;) Bahai, Maranham, and all other ports, (2 per cent.)

On all these articles, the produce of Brazil, when they reach the United States, no impost is charged, except a small duty on wool and sugar, (both of which have lately been reduced,) and of which very small quantities go from Brazil to the United States.

On the other hand, in exchange for this large amount exported from Brazil to the United States, there is imported of the produce and manufactures of the United States into all ports of Brazil from the United States annually to the value of only between twelve and thirteen thousand contos of reis, (between six and six and a half millions of dollars.) The difference between these respective amounts of exports from and imports into Brazil from the United States—about fifty thousand contos of reis—"the balance of trade"—is thus against the United States in the ratio of about 5 to 1, and must be paid to Brazil either in specie, or, as is usually done, by exchange on England.

On these exports (thirteen thousand contos) from the United States to Brazil there is no export duty whatever levied in the United States. But on their arrival in Brazil, the duties imposed in consequence, not so much of heavy rate, but by reason of the exaggerated pauta, or custom-house valuation, is so enormous in comparison with their cost in the United States, that one great cause of the inequality in the commercial movement between the two countries is seen at once. The duty in Brazil by reason of the "pauta" becomes almost prohibitory, or, at least, prevents the importation and consumption, which otherwise would be much greater. This will be clearly perceived

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from some examples of the "pauta" in Brazil on articles which come exclusively from the United States.

Kerosene.—Kerosene (refined) costs, in cans, in the United States about 444 reis per gallon of 3 kilograms, or per kilogram 148 reis. The pauta (on which the duty of 30 per cent. and 5 per cent. and 28 per cent. is calculated or value assessed in Brazilian custom-house) is per kilogram 400 reis, which is nearly three times its value in the United States. The duty amounts to, per kilogram, 179 reis, which is more than 120 per cent. upon the cost.

Rosin.—A barrel of rosin weighs 140 kilograms, and costs in the United states Rs. 6‖000 per barrel, or per kilogram 43 reis. The pauta, per kilogram, is 50 reis. The duty amounts to about 23 reis, or about 50 per cent. on its cost.

Lard.—Lard costs in the United States 9 cents per pound, or per kilogram 380 reis. The pauta here is per kilogram 400 reis. The duty amounts to 180 reis, or 47 per cent. upon its cost.

Pitch-pine deals and lumber cost in the United States $18 per 1,000 feet, or per square metre (1,073 square feet) 370 reis, duty on each square metre is 150 reis or 40 per cent. ad valorem.

Flour.—This article makes up the largest amount in value of the imports from the United States into Brazil. The pauta and the duty are not excessive, not exceeding 9 per cent. on the present high cost in the United States.

The whole value or first cost of the above articles, with all others from the United States, amounts to probably between twelve and thirteen thousand contos of reis. (Rs. 12,000,000: $000, or 13,000:000‖000,) and, from the examples given above, it is evident that this amount is so small, in comparison with the amount exported from Brazil to the United States, principally because the duties, levied thereon in Brazil, are so high as to prevent their more general use and consumption. These duties add so much to the price, to the consumer, that the quantities demanded are small; and these would be much greater, and a larger amount of cheap comforts be afforded to the population, on a lower duty, or, even with the present rate of duty, on a pauta more in accordance with the cost of the articles.

Nor should it be feared that the imperial treasury would lose in receipts, even on these articles, by such lowering of the pauta. The larger consumption would far more than compensate, by a far greater importation, the result of the higher tax on the quantities at present taken. This may be safely predicted of all imports, and especially with regard to kerosene. This article affords the cheapest light now known; and its use becoming more general every day, and especially in the interior provinces, with the extension of railroads and means of intercommunication, there would be a very far greater importation and a very much greater receipt in duties in consequence.

The favorable condition of the imperial treasury and of the finances of Brazil at this time, invite, as well as permit, the lowering of the pauta on those articles whose inflated value has hitherto prevented a larger receipt.

The great rise in the price of Brazil's chief product, which has enriched the country and given such favorable results to the empire, easily epable consumers to take larger quantities of imports, and especially of those comforts which would then be cheap, and of which some of the most essential come from the United States.

Of the enormous advantage to both countries, and to their commerce, in case the imperial government could take this step, the undersigned thinks there is no necessity to speak.

While the imperial government is considering the report of the commission to which was referred the matter of making the pauta conform more nearly to the cost of the articles therein valued, and while the results are still to be determined, it has seemed to the undersigned a proper opportunity again, and in written form, to bring these facts and demonstrations to the notice of his excellency the minister of foreign affairs, and to respectfully urge their consideration.

Such action by the imperal government, securing an adjustment of the pauta in conformity with real value, would be a proof that Brazil appreciated and desired to respond to the liberality already shown by the United States toward Brazilian products.

It is only proper and right that between the two chief powers on the American continent such correspondent action and reciprocity should exist; and these are called for not less by an enlightened self-interest than by the principles of true political economy.

The undersigned, &c.,

JAMES R. PARTRIDGE.

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No. 38.

Mr. Partidge to Mr. Fish.

No. 113.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, May* 23, 1873. (Rec'd June 20.)

SIR: On the 3d instant, the first session of the XVth legislature was closed, and the second session opened by a speech from the Emperor, a copy of which and translation (*resumé*) is hereunto annexed.

It will be seen that this speech announces no new programme of the ministry, but merely declares that peaceful relations are maintained with all foreign powers, and recalls some of the measures adopted during the session just closed.

The electoral law has not yet been acted upon, and most of the bills presented during the late go over to the present session.

Nothing is said about a matter which has, perhaps, more than anything else, attracted the attention of the public, and even entered largely into the discussions of the chambers. This is the "Ecclesiastical question," or the discussion which has arisen upon the attempts of three or four of the principal bishops (Rio, Pará, Pernambuco, &c.) to excommunicate all members of the Masonic orders. Very many, perhaps a majority, of the most prominent political men in Brazil are members of that order. The Viscount de Rio Branco, president of the council, is Grand Master, and many members of the present government belong to it.

As the excommunication prohibits all such persons from participating in any of the sacraments or public acts of their religion, marriage, membership in the charitable orders, baptism, &c., these acts of those prelates have created a very great excitement; and as these decrees have been published without asking or receiving the "*placet*" of the government, as required by their constitution, those who are affected have accused the bishops of its infringement; and the opponents of the clerical party, in the legislature, in journals and in private, declare that this question of masonry is only a pretext with those bishops who have not heretofore disturbed them on that account; but now, under its cover, attempt to establish the supremacy of their church regulations over the civil laws of the empire.

The discussion has been warm, and it is said that the Emperor is even anxious as to the extent and the result which it threatens.

In this connection may be noticed, also, the reply of the bishop of Rio Grande do Sul to an inquiry, in respectful language, addressed to him. by the provincial assembly, as to the number of Jesuits employed in his diocese. His answer was that they had no right to address such inquiries to him, as the matter was exclusively of ecclesiastical jurisdiction and discipline.

I regret I am unable to state that the yellow fever has disappeared. Some few cases are still reported; the weather continues warm, and the city in an unhealthy condition.

The reports of the coffee-crop, now gathering, are that it will be unusually small.

I have, &c.,

JAMES R. PARTRIDGE.

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[Inclosure.—Translation.]

Resumé of the speech of the Emperor of Brazil, from the throne, at the opening of the assembly, May 3, 1873.

Thanks the assembly for their sympathy at the death of his step-mother.

Prevailing epidemic is lessening and the sufferings from it and from inundations were relieved by private charities and by acts of the government.

Good relations maintained with all foreign powers.

Treaties of extradition with Portugal, Great Britain, and Italy ratified; and a postal convention with Peru.

Public tranquillity nowhere disturbed, but life and property sometimes insecure in the interior; this will be remedied by increased intercommunication and measures for elevation of the people.

A continued increase of receipts during 1871-72, and this prosperity permits the reduction of many taxes.

Increase of pay to the army and navy and civil service had become necessary. The administration will be improved by a diminution of its employés and the increase of remuneration.

A plan on a more extensive and perfect scale will be proposed for popular education.

The interests of Brazil demand immigration, professional schools, roads, and telegraphs. Upon these measures will depend a favorable issue of those changes which are to be worked in the organization of labor and interior administration.

Any sacrifices involved by these measures will be more than compensated by the improvement of the people and increase of wealth.

Prolongation of the Pernambuco, &c., railroads is in progress, and many such enterprises are begun without charge to the state.

The province of Rio Grande do Sul has right to assistance for its development by railroads and for measures to protect its frontier with Paraguay.

The Transatlantic Cable Company between Brazil and Europe will also construct a submarine line between the northern and southern parts of the empire.

Two projects of most recognized utility are the reform of the national guard and the new electoral law already proposed; and to these may be added promotion in the navy, recruiting, courts of second instance, and the creation of a new province. This last will comprehend the fertile valley of San Francisco, which has hitherto been deprived of the influx and advantages of civilization.

The electoral reform will secure the first condition of our form of government, the genuine expression of popular will.

Having confidence in your patriotism and in the future greatness of Brazil, I declare the first session of the present legislature closed and the second session opened.

No. 39.

Mr. Partridge to Mr. Fish.

No. 116.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, June* 21, 1873. (Rec'd July 22.)

SIR: In my No. 108, (April 24,) I informed the Department that I had addressed to the minister of foreign affairs here a note in relation to the exaggerated Brazilian custom-house valuation of products of the United States imported into this country, and urged a reduction of this *pauta*, if not of the rate of duty, as a proper answer to our liberality in regard to Brazilian products, and I annexed copy of the note.

I now transmit, annexed, a translation of their reply, by which it will be seen that they promise to give all consideration to these representations as soon as the chambers shall proceed to fix the basis of the new *pauta*.

I am, &c.,

JAMES R. PARTRIDGE.

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[Inclosure—Translation.]

Reply of the minister of foreign affairs to Mr. Partridge's note of April 16, 1873, in relation to the (pauta) valuation of importations from the United States.

RIO DE JANEIRO, MINISTRY OF FOREIGN AFFAIRS,
May 29, 1873.

I have the honor to acknowledge the receipt of the note which Mr. James R. Partridge, envoy extraordinary and minister plenipotentiary of the United States of America, directed to me, under date of 16th April last.

In that note, Mr. Partridge, after referring to the great consumption in those States of all our products of exportation, and to the circumstance that since July, 1872, the importation there of our chief production, coffee, has been free, offers some remarks upon the duties which are paid in the empire by different articles which we import from those States, and urges the propriety of reducing said duties in the "pauta," now about to be established.

Having fully considered the contents of this note, I at once transmitted it to the Viscount of Rio Branco, asking him to have the goodness to enable me to give it the proper answer, and I now have the satisfaction of informing Mr. Partridge that the viscount has just declared to me that he will give the greatest consideration to what has been stated by the minister in this regard, but that he will not be able, meanwhile, to do anything in this respect until the legislature shall determine the bases of the reform which is intended in the custom-house tariff.

I avail myself, &c.,

VISCONDE DE CARAVELLOS.

No. 40.

Mr. Partridge to Mr. Fish.

No. 117.] UNITED STATES LEGATION,
(*Petropolis,*) *Rio de Janeiro, June* 23, 1873. (Rec'd July 22.)

SIR: In my No. 113 I mentioned the question which had arisen here, and which has since been debated in the chambers, in consequence of the publication and attempted enforcement by the Bishop of Pernambuco of the papal bulls of excommunication against the Freemasons and the (*irmandades*) other brotherhoods. The matter has occasioned a great deal of excitement, and the petitions of the Freemasons, &c., claiming that such publication was illegal, were referred to the council of state. This body has decided, and advised the Emperor, that the bishop had infringed the Brazilian constitution and laws by his proceeding.

It is now settled that no papal bull or decree can be published or enforced in Brazil without the *beneplacet* of the government.

In consequence, the minister of the interior had addressed a communication to the bishop, informing him that such publication and enforcement cannot be allowed without consent of the government. He has been careful, at the same time, to so express this information as to give as little offense as possible to the clerical party, and saving all respect for the episcopacy, "upon whose holy ministry," he says, "depends the peace of the faithful and the splendor of the Brazilian church."

The daily papers are filled with articles and communications growing out of this affair, and the liberal party are now clamorous for the establishment of civil marriage, &c., declaring that the future of Brazil and her progressive civilization and increase of immigration depend upon the complete severance of church and state, and upon the abolition of the impediments and obstacles created by the church and still allowed in the legislation of the country.

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The clerical party have thus met with a signal defeat, but it is still strong in the chambers, and will throw itself on either side to defeat the other whose measures may have displeased it.

There has been no other discussion or matter of interest before the chambers.

The yellow fever still lingers in Rio, and some few cases daily are still reported.

The flag-ship Lancaster and the Ticonderoga are both in Rio.

I have, &c.,

JAMES R. PARTRIDGE.

No. 41.

Mr. Partridge to Mr. Fish.

No. 118.] UNITED STATES LEGATION,
Rio de Janeiro, June 24, 1873. (Received July 22.)

SIR: I have received your dispatch No. 75.

In a discussion of the budget in the senate the other day an effort was made by the opposition to reduce the export duty from 9 to 7 per cent. This was opposed by the ministry on the ground that the general increase of pay voted this year had so increased the expenses that there was at present no possibility of this reduction. In consequence of this increase of pay the estimated sum to be provided would be more than one hundred thousand contos of reis, or about fifty-three millions of dollars.

Baron de Sonnleithner has been received as Austro-Hungarian minister. He was formerly and for a long time here—till 1868.

I am, &c.,

JAMES R. PARTRIDGE.

VII.—CHILI.

No. 42.

Mr. Root to Mr. Fish.

No. 60.] LEGATION OF THE UNITED STATES,
Santiago de Chili, December 6, 1872. (Rec'd January 29, 1873.)

SIR: I have the honor herewith to inclose copies of correspondence with officers of the Chilian government relating to the necessity and feasibility of establishing a system of steam tow-boats in the Straits of Magellan; said copies are marked 1, 2, 3, 4.

The incentive to this correspondence on the part of this legation was the recent loss of the American ship Golden Hand, together with the universally-known fact that the loss of life and property in the vicinity of Cape Horn has always been very great, and the navigation in that

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neighborhood always must be very dangerous in every point of view; and if any means can be adopted whereby said navigation can be avoided, the interests of humanity and commerce will be greatly benefited thereby.

I trust further examination may somewhat modify the views entertained and so kindly given by the governor of Magellan in this matter.

As the shipping interest of the United States has so much to do with the navigation near Cape Horn, I trust I may be excused for laying before my Government the inclosed correspondence bearing upon that subject.

I have, &c.,

J. P. ROOT.

[Inclosure 1.]

Mr. Root to Mr. Ibañez.

LEGATION OF THE UNITED STATES,
Santiago de Chili, September 4, 187.2

SIR: In view of the fact that the navigation of the sea, while doubling Cape Horn, has been and ever will be fraught with great danger to the commercial interests of the world, always causing great anxiety in the minds of all parties interested in the fate of ships of every class whose voyages oblige the traversing of the waters lying south of the bleak and inhospitable shores of Tierra del Fuego, and also in view of the fact that a much shorter and safer route for steamers lies through the Straits of Magellan, and, if the same can be made available for sailing-vessels, an untold advantage would accrue to the commerce of the world, I, therefore, desire, if not inconsistent with the views of your excellency, and if not too much trouble, to learn what, if any, efforts have been made toward placing a line of small steamers, usually called "tugs," in said straits for the purpose of towing sailing-vessels through from one ocean to the other; also, if it is known what the probable expense of such an enterprise might be, and whether it is supposed that it would be self-sustaining, or whether it would at first require the fostering care of such philanthropic commercial nations as might desire to assist such a most laudable undertaking, which, though at first initiated in the interest of humanity, would speedily, in my opinion, prove a very profitable investment to any parties having it in charge, and of incalculable importance to the commercial interests of the world. I would, also, like an estimate of the time it would take to *tow* sailing-vessels through the straits, and any facts or suggestions bearing upon this subject which can be readily obtained, my object being to lay this correspondence before my Government, hoping that thereby something may eventuate in the interest of so important a matter. In my opinion, the direct benefit to Chili of this enterprise would be very great, and, when is taken into consideration the vast saving of life, time, insurance, interest on money, wear and tear, and loss of shipping, delay, vexation, annoyance, anxiety, &c., &c., which would result from a successful navigation of the Straits of Magellan by a proper and economical system of steam tow-boats, it would seem that a project so urgently demanded and apparently so feasible should soon be put into operation.

I improve this opportunity to offer renewed assurances of the sentiments of distinguished consideration and esteem with which I have, &c.,

J. P. ROOT.

[Inclosure 2.—Translation.]

Mr. Ibañez to Mr. Root.

REPUBLIC OF CHILI, MINISTRY OF FOREIGN RELATIONS,
Santiago, September 9, 1872.

SIR: I have the pleasure of acknowledging the reception of the very estimable note of your excellency of the 4th instant, in which are solicited from this government several data concerning the navigation of the Straits of Magellan, with the design of promoting the early establishment of a line of steamers for the purpose of towing sailing-ves-

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sels of all commercial nations by the route now used by steamboats alone, which not only will be a great advantage to commerce, but also the saving of the lives of the navigators who now suffer all kinds of dangers and hardships while doubling Cape Horn.

I ought to manifest to your excellency, in answering, that my government has for some time been examining this project, and it entertains the same philanthropic sentiments, and realizes the important commercial advantages which are so vividly described in the note of your excellency. Neither has there been a lack of propositions presented to the national Congress and the executive looking toward this matter, but until now none sufficiently solid has ventured alone the execution of a thought so useful, and at the same time so humane, and to which, without any doubt, my government will be disposed to lend all the aid in its power.

With the object of immediately gratifying the desire expressed by your excellency I have hastened to ask my honorable colleague, the minister of marine, if he will be pleased to transmit to me all the hydrographical studies executed upon the Strait or Straits of Magellan, by order of that department, as well as other data to which your excellency refers, which I shall place at your disposition as soon as they arrive to my hands. In the mean time I cannot forbear expressing to your excellency the lively satisfaction with which my government has seen the praiseworthy desire of your excellency in order to promote the early realization of an idea which at once benefits humanity and general commerce, bringing into view once more the noble sentiments which animate your excellency to the end that this and other sister republics of the Pacific, which are those that would obtain an advantage the most immediate of an easy and expeditious communication between the two great oceans.

Be pleased, your excellency, to accept, &c.

ADOLFO IBAÑEZ.

[Inclosure 3.—Translation.]

Mr. Ibañez to Mr. Root.

REPUBLIC OF CHILI, MINISTRY OF FOREIGN RELATIONS,
Santiago, November 27, 1872.

SIR: Referring to the note of your excellency, dated 4th of September last, which was received the 9th of the same month, I have now the honor of remitting to your excellency an authenticated copy of the annexed official letter, which, on the 14th of October, the minister of marine directed to me in answer to a note which, with the object of satisfying the desire expressed by your excellency, was communicated to him by this ministry.

I ought to add, only, to that which is contained in the annexed copy, that the informer, Captain Oscar Viel, now governor of Magellan, is an experienced officer of our national marine, who has resided for some years in that territory, and to whose knowledge my government gives credit, without accepting by that, however, all the conclusions to which he arrives in the inclosed information.

It may not be out of the way also for me to state to your excellency that my government is now occupying itself with all activity in facilitating by every means in its power the navigation of the Straits of Magellan in the interest of the commerce of all nations, and that, perhaps, much time may not transpire before I may have the honor to communicate to your excellency the means adopted for that object.

Please to accept, &c.

ADOLFO IBAÑEZ.

[Inclosure 4.—Translation.]

Mr. Pinto to Mr. Ibañez.

MINISTRY OF MARINE,
Santiago, October 14, 1872.

The governor of the colony of Magellan, with date of the 24th of September last, from Sandy Point, writes me the following:

"In compliance with the wish of your excellency for information relating to the desire expressed by the honorable minister plenipotentiary and envoy extraordinary of the United States of North America upon the possibility of establishing a line of steam tow-boats in the Straits of Magellan, I have the honor of submitting to your excellency my opinion upon the subject.

"Nothing can be more laudable than the idea put forth by the honorable North American minister, since, without doubt, a business of steam tow-boats would give

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great facilities to the sailing-vessels that cross Cape Horn; it would economize time interest on capital invested in the vessels and merchandise that they transport, and more than all, personal misfortunes, which more than once we have had to lament; but this is not without difficulties; it is nevertheless possible; but will it be practicable to establish it? Under a humanitarian point of view it is excusable to enter into great expenses, since whatever might be the cost, the prevention of the loss of life would more than compensate for it, for, unfortunately, such accidents are very common with vessels that double the stormy Cape Horn. But, considering the economical question, my humble opinion considers it disadvantageous. I do not know but my calculation may be false; in any case the high penetration of your excellency will give it the merit which it deserves.

"Without any knowledge of the amount which the tug-boats would be obliged to charge, and whose number to commence with ought not to be less than four, I will not enter into details to your excellency on this point. The first difficulty which offers itself is the want of ports of waiting in the two mouths of the channel—that in Cape Virgin and Cape Pillar. Though the sea is boisterous in these latitudes, it is not inconvenient for the people of the sea to confront it if there is a free road and an open port always exists that can be reached from the tempest; but the lack of these, as I have said before, will oblige the vessels that desire to be towed to maintain themselves in the high seas at no less than thirty miles distant from the shore. This supposition is not entirely ventured, since, being of the profession, I can assure your excellency of it. The maintenance of the vessels, as I have indicated to your excellency, is not exempt from danger in these ports, especially on the Cape Pillar side; and so much so is this the case that the regular steamers are many times obliged to remain one or two days without being able to approach the mouth of the straits, and many vessels whose captains have desired to pass through have been obliged by the stormy weather to continue their voyage around Cape Horn. Supposing, nevertheless, that vessels can maintain themselves in these places, it would be necessary that the tow-boats should be looking for them thirty miles outside, which would not only lengthen the distance, but also present other inconveniences—as that of towing in the high sea, and especially if there is stormy weather a tow-boat ought to have great power in order to counteract the force of the sea and wind; and this your excellency will be able to understand, since you know that many steam-vessels have been obliged to recede, while looking for a port of refuge, from not having power to conquer the force of the tempestuous waves and strong winds when going out by the west mouth. Nevertheless, other and better judges may not consider these difficulties, and I have only enumerated them with the idea of possibly being more exact.

"I will call your attention to another question, which is that of the time it will take and the expense it will require to perform the towing.

"The straits being three hundred miles long, and supposing the vessels were taken and left only twenty miles away from the coast, it would result that there would be three hundred and forty miles of travel for which to pay the tow-boats. Taking it for half time, the velocity which the tow-boats can make, perhaps five miles per hour, it will require, without counting the time that they will pass anchored on account of weather and dark nights, which in winter are very long, sixty-eight hours of constant towing. What ought to be the cost of towing per ton? Taking the half that vessels pay in the harbor of Constitution to the tow-boat of the state, it would be five dollars per ton for each mile. Suppose a ship of 500 tons register, the common size of the vessels that sail on the Pacific, it would result that each mile will cost $25, and $500 for the three hundred and forty miles, which I have shown your excellency they ought to earn.

"Supposing these figures exaggerated, and considering them only the half, which will reduce the sum to $250, the question presented is, will it be practicable for the vessel to pay for the towing? Certainly if the cargo is valuable, but undoubtedly not if the cargo is not very valuable.

"With the traffic of the steamers, which increases each day, as is well known to your excellency, it is not venturesome to predict that many years will not pass before the steamers will transport the valuable merchandise; leaving the number of sailing-vessels reduced, which will remain solely for transporting articles of little relative value, such as iron, coal, &c.; and will vessels carrying such merchandise be able to pay the sums indicated? It is not possible for me to answer this question, since I am ignorant of facts necessary to this end, but, considered in a general way, I hesitate not to decide in the negative.

"By this exposition your excellency will know that I have referred alone to vessels that ought to be towed, and, fearful of committing errors of judgment in the calculation able to be made upon the probable number of ships that would pass the straits, the cost of the tow-boats, their maintenance, and other things connected with an undertaking of this nature, I leave to others who, with dates more valuable, can lay before your excellency the reasons they entertain.

"It is possible and I desire greatly they may contribute to make the obstacles disappear which I have exposed, and which alone the desire of being exact has influenced me to

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manifest, obeying thereby the dictates of my conscience, since it imports nothing in this subject to be carried away by the imagination, forming flattering dreams whose realization, if not insuperable, presents, nevertheless, great difficulties; and I believe it is worth more to know the truth, although it deprives us of a pleasant delusion.

"Among the advantages which ought to present themselves for the foundation of such an undertaking not the least that offers itself is the establishment of a coal-yard at Punta Arenas, (Sandy Point,) which will facilitate greatly the movements of the tow-boats, and where they will come in immediate contact with the traffic of the steamers, recourse to which undoubtedly would need the vessels employed in that traffic.

"If the exposition which precedes is not as extensive and precise as it would have been desirable, I expect your excellency will please excuse it in view of the lack of statistics and official informtion which so delicate a business requires."

For the information and other purposes of your excellency the above has been transcribed.

God guard your excellency.

A. PINTO.

To The MINISTER OF FOREIGN RELATIONS.

Correct copy.—Attest:

D. GANA,
Chief Clerk.

No. 43.

Mr. Root to Mr. Fish.

No. 66.] LEGATION OF THE UNITED STATES,

Santiago de Chili, January 7, 1873. (Received Feb. 20.)

SIR: I have the honor to advise that I have accepted an invitation kindly given me by Mr. Ibañez, minister of foreign relations, to accompany him on a visit to Punta Arenas, (Sandy Point,) in the Straits of Magellan. As you are aware, at this place there is a Chilian colony; therefore during my absence I expect to be constantly within the jurisdiction of this legation, being never beyond territory claimed by the government of Chili. I trust I may be able to gather items of sufficient interest to reward the efforts made to obtain them, a notice of which I will give on my return.

We expect to leave Valparaiso on the 14th instant, and to be absent about a month, perhaps a little more, returning part of the way by land for the purpose of visiting some frontier ports in the neighborhood of the "Arauco" Indians, a tribe never yet subdued either by the Incas of Peru, the early Spaniards, or the more modern Chilians. We expect, also, during our absence, to see more or less of the Patagonian Indians, as well as those of Tierra del Fuego. Having seen much of the North American Indians during years past, and been deeply interested in all that pertains to them, as well as thoroughly convinced of the propriety of President Grant's humane ideas in their treatment, I desire to make myself personally as familiar with the same class of human beings in South America as is consistent with my duties, trusting that no harm, at least to humanity, may result therefrom.

I have, &c.,

J. P. ROOT.

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No. 44.

Mr. Root to Mr. Fish.

No. 68.] LEGATION OF THE UNITED STATES,
Santiago de Chili, February 26, 1873. (Received May 5.)

SIR: In accordance with my promise made before starting on my recent voyage to the Straits of Magellan with Mr. Ibañez, minister of foreign relations, to whose kindness I was indebted for very much that made my long trip both interesting and comfortable, all of which I may be allowed to attribute, not only to personal friendship and natural nobleness of character, but to his high appreciation of the republic I have the honor to represent, I will give as briefly as possible an account of what has fallen under my observation and come to my knowledge during my absence, from the 14th of January until the 23d of February.

Our voyage to Sandy Point (Punta Arenas) had nothing of particular interest connected with it, save that it transpired in one of the first-class steamers of the Pacific Steam Navigation Company, an English company controlling at the present time, not only almost the entire carrying trade of the west coast of South America, but also between said coast and Europe, a trade initiated by citizens of the United States, and which ought, and apparently might have been, with a little fostering aid from the Government of the United States, mainly if not wholly in the hands of American citizens up to the present time.

The Straits of Magellan are now the only traveled route for steamers in passing between the eastern and western coasts of South America. The waters are usually smooth and perfectly easy of navigation, and with ordinary care present no difficulties whatever. The various channels, bays, and inlets, however, leading in divers directions from and into said straits, are not very well laid down on any maps or charts, as, for instance, one afternoon on our outward-bound voyage, an American gentleman came hurriedly to ask me to go on deck, as we were passing through a very narrow channel, with high, rocky banks, covered with moss, and presenting most beautiful scenery. Soon after my arrival on deck the vessel emerged into a wider piece of delightfully smooth water, with no opening visible save the one through which we had entered, a kind of cul-de-sac, upon seeing which, of course, the steamer was instantly stopped, and as speedily as possible turned back into the proper channel, which we had left by mistake. The turning, however, of a ship over 400 feet in length in a small channel whose waters are unknown is not the work of a moment; fortunately we came out all right.

On the most recent charts and maps the narrow water which enticed us from our course is called "Cordova Channel," and is made to lead through to the Pacific Ocean east of the Island of Desolation. But our experience demonstrated the incorrectness of all such charts, and upon our arrival at Sandy Point the governor informed us that he also had information corroborating our experience. Cordova Channel was laid down being only of a few miles in length, with no southern outlet. The first channel leading from the straits through to the Pacific on the south lies many miles to the east.

For the most part the western end of the Straits of Magellan is much narrower than that from the Atlantic; and the entrance at Cape Pillar, on the Pacific side, is always more or less difficult, and often quite dangerous, owing to its rocky character, and the turbulent condition of the sea in that neighborhood, rendering it impossible sometimes for either

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sailing-vessels or steamers to enter. The sides of the straits toward its western extremity are composed of high, precipitous, and barren rocks, devoid of vegetation, except of a meager and mossy nature, while in the center, and especially east of Cape Forward, vegetation is more abundant, and in the neighborhood of Sandy Point immense forests of heavy timber abound. This timber is mainly of one class, a sort of beach, which makes very good lumber. There is another variety called hard-wood, (*leña dura*,) which is an evergreen, though not at all resembling any class of pines; on the branches and leaves of this the domestic animals of the colony feed to a great extent during the winter; also from it the charcoal of the colony is prepared.

The difficult and often dangerous navigation in the vicinity of Cape Pillar (Cabo Pilar) can be easily avoided by the navigation of Smyth's Channel, which opens at its southern extremity into the Straits of Magellan at Cape Tamar, about sixty miles from the western entrance of the Straits of Magellan, in latitude about 53°. The entrance to Smyth's Channel from the Pacific Ocean, between latitude 47° and 48°, from the Gulf of Penas, is very easy for all classes of vessels, and the navigation of this channel can be performed with perfect safety at the present time by small steamers, and when two hidden rocks in the English narrows of said channel are marked by proper buoys, all classes of steamers can pass with ease; in fact many of the largest vessels of the Pacific Steam Navigation Company have already navigated this route. But one or two accidents in the narrows above alluded to have caused an order for no further attempts of this kind to be made until the rocks spoken of can be properly marked, a thing which ought soon to be done, and thus many hundred miles of dangerous and unpleasant navigation would be avoided. Cape Pillar then can be left to its stormy, gloomy glory, the dread of even experienced navigators, and the terror of all travelers with sensitive stomachs or delicate nerves.

In a former dispatch I transmitted correspondence had with the Chilian government upon the propriety and feasibility of placing a system of steam tow-boats in the Straits of Magellan, the tenor of which was unfavorable to such a project. I am satisfied now from personal observation of the truthfulness of the report of the governor of Magellan contained in said correspondence, relating to the difficulties to be encountered in the Pacific entrance to said straits. All of which, however, may be obviated by the navigation of Smyth's Channel, the entrance to which, as previously stated, is easy, and near which there are plenty of places suitable for the rendezvous of all classes of vessels; and I am convinced more than ever of the importance of a line of tow-boats through these waters, not only in a humanitarian point of view, but as a great financial saving to the commerce of the world now passing around Cape Horn. My dispatches and correspondence on this subject were largely prompted by the great loss of life and property in the past while navigating the waters in this vicinity, my attention being especially aroused by the loss of the American vessel Golden Hind during the last winter, when many lives were lost, and those saved only so after passing through untold hardships, and being preserved from actual starvation by feeding upon the bodies of their dead companions for many days; and since my return I have learned of the loss of a vessel near Cape Pillar, whose surviving passengers and crew we must have passed in the night or fog unnoticed, as they were found in a boat a few days afterward, with only one woman and two men living, twenty-two having starved to death.

A further lengthening of this route of internal navigation will eventually take place, and with great advantage to Chili, by cutting a channel

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across a narrow strip of land now separating the waters of the Gulf of Penas and Smyth's Channel from the waters lying between the island of Chiloe and the main land, allowing vessels subsequently to pass from between latitude 41° and 42° on the Pacific through quiet waters and easy navigation, with interesting scenery constantly in view, to the waters of the Atlantic. And when Chili shall take advantage of all these fortunate circumstances, and construct a railroad to these waters at or near the present town of Port Meritt, a large commercial city will be rapidly built at said place.

The scenery through the straits in many places is beautiful and grand in the extreme. Quite a number of magnificent glaciers may be seen at different points, some of them coming to the water's edge, from which it would be an easy matter to obtain a supply of ice for a long voyage or for sale in more northern localities. I noticed an enormous whale disporting himself one morning in a narrow passage, very seriously perplexed by being obliged to confine his excited display of fins, tail, &c., within the few rods between the side of our ship and the rocky shore. Multitudes of seals are also often seen in different localities; also an occasional albatross shows himself overhead, though this monstrous bird is usually seen outside the main-land, the largest ones even south of Cape Horn.

Sandy Point is the only settlement of any kind in the Straits of Magellan, or south of the island of Chiloe, on the Pacific side, and is a Chilian colony. On the Atlantic coast there is a settlement on the Rio Negro, (Black River;) also a very small one on the Rio Santa Cruz, both under the Argentine government.

The governments of Chili and the Argentine Republic have not yet located satisfactorily the dividing line between their possessions in Patagonia, both nations claiming more or less of said country. It is hoped, however, that negotiations now pending may result soon in a peaceable adjustment of this matter. Sandy Point has been, and to a certain extent is now, a penal colony of Chili, though of the about eight hundred people now living there less than a hundred are prisoners, and these only for desertion. The police duty of the place and garrison is performed by twenty-five marine soldiers. Captain Oscar Viel, of the Chilian navy, is now and has been for some time its governor. He is a very excellent gentleman, of French descent, speaks English, Spanish, and French, and, together with his beautiful Peruvian wife, makes all parties happy who are so fortunate as to enjoy the hospitalities of their home, as we had the pleasure of doing for three weeks, not being able to leave sooner on account of the unusual delay of the arrival of regular steamers. This place is located just below latitude 53°, and about fifty miles north and east of Cape Forward, the southern point of the main-land of the continent. The straits at this place are about twelve or fifteen miles wide, and from Sandy Point Tierra del Fuego is in plain view on the opposite side. The temperature is never hot in summer nor excessively cold in winter, being more moderate than either on the Pacific or Atlantic in the same latitude, and less liable to storms. During about two months of winter there is more or less snow, sometimes to the depth of a foot, but not generally remaining many days, and the thermometer has not been known lower than 14° Fahr. above zero.

Domestic animals, of which there is a good supply of the usual varieties, live during the winter without more feed than they are able to procure for themselves either from the grasses or by browsing in the forests upon the "hard wood" before alluded to. Unquestionably it is bad husbandry not to feed the animals with the grasses and grains

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which might be grown here without difficulty; still all classes of stock looked well, and especially the oxen, which I think average larger than any I have ever seen in any other country. The soil is evidently very fertile, and when under proper cultivation would produce all classes of vegetables usually grown in similar climates. At present very little is being done towards developing the agricultural resources of the country. The timber is good, though, as stated previously, mainly of one variety. A government water-power saw-mill of an inferior quality near the town supplies readily all the needed boards, &c., at present required. The trees are large, though not high. I measured one blown over by the wind which was seven feet in diameter. Few, however, are as large.

The coal-fields are evidently large, and when fully developed must prove of great service to the wealth of the place. At present only one mine has been opened and is being worked. This lies about five miles from the town, and is reached by a narrow railroad on which small cars are drawn by horses to the mines, and from which the easy grade is sufficient to return said cars without any other motive-power. This coal, though abundant, thus far has not proven of a very good quality, and is refused by the steamers passing. A deposit about one hundred and fifty miles in the interior promises to be of much more value; other veins near also give promise of future production, when more developments have been made; but that there are large deposits of coal there is no doubt.

The gold-fields also of this vicinity are evidently rich and extensive. Gold has been found in all the streams of the neighborhood, and, though no systematic efforts have been made for its development within the last year, from official statements it is shown that more than twenty-five thousand dollars' worth have been sent from the colony. The gold is found generally in small nuggets and may be called gulch and placer gold. The largest nugget found last year was worth nearly $40. The implements used for washing gold are of the crudest variety—a miserable spade and a wooden bowl; nothing more has ever been used. I saw parties washing in various places, and never observed a dish of earth without the "color" showing itself. To test the matter a little, Mr. Ibañez offered the prisoners for their own use and benefit all the gold they could get within four days, provided they would show him the gold they obtained. And the result of their labors, without any previous preparation and with but few implements, was an average of about seventy cents' worth per day for each man. No "sluices," "rockers," "long toms," "quicksilver," or other appliances usual in gold-diggings have ever been used here, and I was unable to learn that any effort had been made to find the bed-rock. The diggers seemed to make a hole and wash a while, and then go to another place, without any regular plan of operations, all the time finding more or less of the precious metal. As I watched their proceedings, it seemed to me that some systematic work would soon make a different showing as the result of labor, but having had very little personal experience in mining districts I can only give the facts as I found them.

Tierra del Fuego, lying opposite Sandy Point, is well wooded for the most part, and especially the slope fronting the north is evidently as well if not better fitted for the habitation of man than the neighborhood of Sandy Point. As day after day and night after night the smoke of the camp-fires of the Fuegean Indians was seen in plain view of civilization, I could not but feel sad to think that for any reason there was no communication whatever between the two shores, the inhabitants of

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each side being afraid of the treachery of the other, and whether either had just cause for such notions is a question of doubt in my mind; and the only thing I seriously regret, connected with my voyage, is that I was not able to visit the Fuegean Indians, and make an effort to place them on friendly terms with the whites of all nations, as all parties traversing those waters are more or less liable to fall into their hands, and in their present destitute condition they are unable, whether so disposed or not, to give much assistance to unfortunate seamen or others thrown upon their shores.

On my arrival I made great efforts to get an interview with the inhabitants, but there was no proper and safe means of so doing. I have the promise, however, that within a few months a Chilian man-of-war will be stationed at Sandy Point, and the governor will make, I think, successful efforts to form a friendly acquaintance with his Fuegean neighbors. It is said of them that they are cannibals, and all sorts of bad tales are told of them, but I am not prepared to believe these reports. It is said that the captain of an English vessel, a few years ago, while on the island with some of his crew, was killed and eaten, the latter part of which is not believed by those best informed, and my information is derived from the gentleman who visited the place afterward, and found the remains of the captain and buried them, and who is of opinion that his death was caused purely by his own folly and madness. Other circumstances corroborate his view. The facts are, these Indians, like most others in all countries, have been treacherously dealt with by their white neighbors, and cannot be blamed for having unpleasant feelings and those of distrust against said neighbors. As, for instance, many years ago, before the advent of the present governor, the then governor of Sandy Point, having for some purpose several of these Fuegeans with him and in his power, had some of them unmercifully whipped. These people, not understanding and not enjoying this kind of international courtesy and kindness, sought in haste their own homes, and have not since ventured near the settlement. But if it is true, which I do not believe, that these people are as savage and blood-thirsty as represented, seeing that they live directly on the track of a great thoroughfare traveled by the growing commerce of the world, it is only another argument in favor of the importance of a speedy effort being made to secure their civilization and friendship. My anxiety in this direction, as stated before, has been heightened from the fact that not many months since one of our own ships was wrecked near Cape Horn, and had these Indians been on friendly terms with this settlement so that they had dared to have taken those starving, freezing mariners under their guidance, they might and unquestionably would have cheerfully shown them the way to a harbor of safety and plenty, instead of only being able to throw them a duck or two from their own scanty fare, as those Indians at the best can scarcely obtain food for their own consumption, and travel long distances in their canoes, even away up Smyth's Channel, for the purpose of getting something to eat. I am in this connection happy to know that nothing in the history of our beloved President has endeared him more to the hearts of all true philanthropists than his attempts, in the interest of humanity and true Christianity, to ameliorate the condition of our own Indians, and show his recognition in the wild Indian of the mountains and plains of a brother man. And I may be allowed to say that in this one recognition lies the final and easy solution of the whole Indian question. I hope I shall be able to report before many months an arrangement peaceful and satisfactory with these heretofore badly-reputed Fuegeans. And, in view of the actual concern the commerce of our

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country has in this important matter, I would suggest the propriety of an official manifestation to the Chilian government of the interest and sympathy the Government of the United States has in any successful attempt to cultivate peaceable and friendly relations with the said Indians. I ought, in this connection, to state that a small English mission on Narvarrin Island, connected with the Anglican mission on Falkland Island, has been established, the good intentions of whose authors and workers are praiseworthy. Such enterprises, however, should not be left alone to the philanthropy of a few individuals, especially as nations as well as individuals are to be benefited by the civilization of these people. From the appearance of some Fuegeans living among the Patagonian Indians, with whom I had frequent interviews, and from many other sources, I am able to state that the Fuegean is by nature a smart, active, and intelligent being; his stature is about that of the average European, with bright face, well developed and regularly formed head, and when brought under the influence of education he will hold his own with any other race of human beings. His living is largely by fishing, though game to a limited extent abounds on the land he inhabits, to kill which he uses the finest bows and arrows I have ever seen. Of his ingenuity I have ample proof in some of the ornaments and utensils of his manufacture in my possession. His canoes are also quite ingeniously constructed. His covering is of skins. The religion of the Fuegeans is like that of most Indians; they believe the good will be happy and the bad unhappy in the spirit world, and they color the localities where these good and bad parties may find themselves in accordance with their fancies. Staten Island, lying to the southeast of Tierra del Fuego, is well wooded, and is now being occupied by a party from Sandy Point in getting oil from the multitude of penguins which are found on the island; many of the largest, especially the "king penguin," yielding a gallon each. Magdalena and Quartermaster Islands, situated in the straits, and within sight of Sandy Point, to the east, in a clear day, are now being occupied by parties procuring guano, the same being purchased from the government of Chili. Guano is also found in various places on the small islands near the eastern coast of Patagonia.

Always within view at Sandy Point are mountains covered with snow, though none are very near. Mount Sarmiento, distant to the south from Sandy Point nearly a hundred miles, is evidently a volcano, though this fact was not recognized even by the governor until I called his attention to the same. This, however, is not much to be wondered at, as there are not many days in the year when a good view from this place can be obtained of the mountain, owing to the clouds usually surrounding its summit. I do not think it is in active operation, except to send forth gaseous vapors, which do not give light in the night, and during even a clear sky are only made visible by the sun's rays from an angle suited to the locality of the eye. As, for instance, while watching the unquestioned escape of large columns of gaseous vapor one evening before sunset, immediately after the sun's rays had disappeared, and yet while the mountain was in perfect view, no vapors were observable. The same phenomenon I have frequently noticed in many localities in the Andes, and from craters from which I positively knew hot volcanic vapors were issuing, as I had been in close proximity to them. There are very many such mountains in the Andean Cordilleras, sort of breathing places, and when in their immediate vicinity, aside from witnessing vaporous emanations, a blowing sound is heard, of greater or less intensity, sometimes continuous, at others intermitting, as though ol

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earth was carrying on the process of respiration, puffing and blowing, frequently with great regularity.

I saw much of the Patagonian Indians. Many different parties of these fabled giants having visited the place for trade during my sojourn, and through the kindness of the governor and others, as well as the Indians themselves, many of whom spoke quite passable Spanish, I was enabled to gather very correct ideas of these people. Their principal chief, Casimiro, is an intelligent Indian, and when duly sober was very interesting in his description of his country and people. The tribe numbers, according to his estimation of those that live in the whole of Eastern Patagonia, as far north as the Rio Negro, about three thousand; very few of these, however, ever visit Sandy Point. For many years the government of the Argentine Republic has given several of the chiefs annuities. Casimiro has received large amounts from this source, but his generosity of heart always keeps him a very poor Indian. The living of these Indians is purely by the chase, except a few berries from the pampas. The huanaco and ostrich form their principal food, and the skins of these animals are used, also, for their clothing and articles of merchandise. The meat of the ostrich, when cooked, resembles very much that of the prairie-chicken, and is quite palatable; that of the huanaco the flesh of the deer, and is, therefore, good.

A singular fact connected with the Patagonian is that he never uses the bow and arrow; his sole instrument for hunting is the "bola," consisting of two and sometimes three balls of convenient size, to hold one in the hand while the other, at the end of a cord from two to three yards in length, is swung around the head until sufficient momentum is obtained, and all thrown with great swiftness, twirling around in circles through the air until some object is struck, when the balls immediately wind themselves around the same with great violence, whether it be the neck or leg of a huanaco, ostrich, horse, or other animal, and when thus entangled he becomes an easy prey for the knife. The lion is thus attacked. In Southern Patagonia two balls alone are used, while farther north sometimes three, going from a common center. They have, however, some guns and revolvers, but only use them in warfare, or in their drunken quarrels, when too near the vicinity of bad men who have despoiled them of their goods and reason in exchange for infernal "fire-water." The average height of the men is five feet and a fraction over nine inches. The tallest one I found was six feet three inches and a half. They are broad-shouldered, with large, muscular bodies and limbs, and, like most large people, are well-disposed.

Casimiro, a little larger than the average, measured five feet ten inches in height, and around the body under the arm forty-six inches and three quarters; his feet, ten and three-quarter inches in length; head, twenty-three and a half inches in circumference. I measured no male head which was less than twenty-two inches, and only one female head as small as twenty-one inches around the crown. They are without doubt the largest race at the present time in the world. The women, while large, with broad shoulders, are not as tall in proportion as the men, not averaging quite five feet two inches. They have very fine horses, which they eat when other provisions are short. Their covering is almost exclusively made from the skins of the young huanaco, which makes quite an elegant robe, and is much sought after by travelers passing through the straits, and also quite an article of merchandise in Valparaiso, Buenos Ayres, and Montevideo, as are also the robes of the ostrich skins. The ostrich of Patagonia is much smaller than those of the more northern pampas; the eggs, which form not an unpleasant

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article of diet, are also much smaller, being 11¾ inches in circumference in the smallest part, and 14¼ inches in the largest. A few of these, however delicately cooked, soon satisfy even a hungry man's craving for "poached eggs." The long feathers of these ostriches are used for brushes, but not for ornaments. The beautiful ostrich plumes so much used by milliners are obtained from the African ostrich. Casimiro informed me that he understood the religion of the Cristianos, (Christians,) and that he had been baptized by a Catholic priest, but his people did not like this religion; they preferred their own. Their belief was that there were two roads after death, one going to a good and the other to a bad land. He had recently lost a daughter, who, he said, went to the Christian's heaven, because she had been baptized by a Christian; none of the other members of his family were Christians, but he thought they would all go to the same heaven; he could not see any other place for them to go to. These Indians also believe that the spirits of the departed come back, especially in the night-time, to visit their friends. They are evidently a very good-natured set of people, and could a policy be adopted of placing them upon reservations, and teaching them how to cultivate the soil, they would soon become prosperous and happy. The old chief's eyes brightened up as I explained to him the plan of reservations adopted for the Indians of my country, and he eagerly said he should like the same for his tribe, as they all enjoyed the products of the soil. But alas! there seems no hope for this once great and powerful race; "fire-water" and the contamination of bad white men, it is feared, will soon prove their total extinction.

On our return we left the steamer at Coronel and came the remainder by land, several hundred miles, passing on the way through a rich country, but entirely devoid of timber, though formerly covered with heavy forests; and now for much of the distance there is a scarcity of water, it being observed that as the forests disappear the water-courses dry up in many places, so that mills formerly run by water were seen with no streams near them. Even as far north as Santiago, when the place was first settled, it was surrounded by a timbered country, while now for several hundred miles south the agriculturists depend upon irrigation from mountain streams for their crops. We diverged from our route for a few days to visit the baths of Chilean, in the Andes, about 7,000 feet above the level of the sea. These baths are somewhat celebrated, and justly so, being supplied with water from a large number of hot mineral springs pouring forth from a mountain formerly the seat of a volcano, and now sending out gaseous vapors from a multitude of springs evidently communicating with the former subterranean fires, whose ancient activity is well attested by the immense quantity of volcanic debris in the vicinity, as well as the present character of the phenomena everywhere visible. There are many baths of somewhat similar nature in this country, but none with waters of so good a reputation as these.

The springs are of different varieties, as sulphur, soda, iron, and potash. A very excellent steam sulphur-bath is made from the very hot steam fresh from the earth. Said baths are situated between latitude 36° and 37°. Within the distance of a few leagues in several directions are volcanoes in different stages of activity at the present time—that of Chilian, to the north, with two openings, called the old and new, now only emitting gaseous vapors, while that of Antuca, lying to the south has more or less smoke mixed with its vapors. There are some of lesser note still nearer, whose names I have forgotten. In my rambles not far from the baths above alluded to, I found an extensive cave beneath a

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snow-field, in which I discovered a tender plant with green leaves growing, while from the snowy arch overhead a few rays of light were struggling through to cheer its loneliness.

These baths are only used a few weeks in summer, after which they are entirely deserted, all the buildings being completely buried beneath the snow for many months, and left wholly to the guard of the elements of nature in their lonely mountain solitudes.

I have, &c.,

J. P. ROOT.

VII.—CHINA.

No. 45.

Mr. Low to Mr. Fish.

No. 199.] LEGATION OF THE UNITED STATES,
Peking, October 17, 1872. (Received December 26.)

SIR: In pursuance of a decree issued some months since, the imperial marriage was celebrated yesterday with all the forms and ceremonies usual on such occasions in this country.

The procession left the palace grounds at about 4 o'clock p. m. on the 15th instant, and proceeded to the residence of the empress elect, which is located outside of the Forbidden City, in the one where the legations are; it returned, escorting the chair of the empress, by the same route, and reached the palace before daylight of the 16th. All the streets through which the procession passed were closed to spectators, as well as travelers, on the two days mentioned.

On the 13th instant two ministers of the yamên, Chunghow and Chunglin, visited the foreign legations. Their intended visit was announced beforehand, but no mention was made in the note (which is usually the case) of its object.

At this interview the conversation commenced by their informing me that their visit was made in obedience to the orders of Prince Kung, for the purpose of notifying the several legations that the imperial marriage would be celebrated on the 16th instant; that the streets of this city through which the marriage procession would pass would be closed on the 15th and 16th; and that, in order to secure to the procession entire seclusion from the public, barricades would be erected across all streets intersecting the main route, and a patrol of police and soldiers would be stationed along the route to arrest all who should attempt to transgress the rules laid down. In addition, the foreign ministers were requested to give notice to all their nationals of the facts before stated, and issue strict orders to prevent any attempt on the part of foreigners to appear on the streets forbidden to the public.

The foregoing is, in substance, what was said, although the conversation was interspersed with polite and excusatory expressions by Chunghow.

In reply I said that if the government chose to make the imperial marriage a private ceremonial, no objection could be reasonably urged against it by foreign governments, although such was not the custom usual in Christian countries; and that if the municipality closed, tempo-

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rarily, certain streets of the city, I should not conceive it to be my duty to inquire into the reasons for so doing. In the present instance, however, the marriage had, by this action of Prince Kung—sending the ministers to notify the foreign legations—been changed from a private to a public ceremonial; and as such, foreign governments might reasonably object to the mode and manner in which the announcement had been made.

I also observed that, as regards the issuing of the notification to my countrymen, it would be done as an act of courtesy, but I could not allow the occasion to pass without frankly expressing the opinion that the orders of the government placing the foreign ministers on a par with their servants, so far as the orders for exclusion went, were wanting in that hospitality and politeness which should characterize intercourse between friendly nations.

The Chinese ministers tried to excuse and explain away this act of apparent rudeness, but their explanations, though undoubtedly satisfactory to themselves, failed to change my opinion of the whole affair.

It is understood that the other foreign ministers viewed the whole thing in the same light I did, and expressed opinions not unlike mine, though perhaps stronger.

I have, &c.,

FREDERICK F. LOW.

No. 46.

Mr. Low to Mr. Fish.

No. 202.] LEGATION OF THE UNITED STATES,
Peking, October 23, 1872. (Received December 26.)

SIR: About two months ago a covert hostility on the part of the officials to missionary operations appeared at Hangchow, the capital of the province of Chekiang. That city being nearer to Ningpo than any other port, the missionaries reported their troubles to Mr. Consul Lord, and asked his assistance. The consul, in company with the interpreter of the British consulate, proceeded to Hangchow without delay to look into the matter.

The letters of the missionaries to the consul and the dispatches of the latter to me, copies of which are inclosed, will put you in possession of all the information in my possession as to the cause of the trouble, the action taken by the consuls, and the results so far as known.

It is to be hoped that the local officials, finding that notice was promptly taken of their action by the consular representatives of England and the United States, will cease their opposition and refrain from further acts of indirect hostility. Of this, however, I am by no means certain.

This case affords a striking illustration of the difficulty, if not practical impossibility, of affording "protection" to missionaries when residing inland; it also shows the unusual and cruel devices to which Chinese officials will resort to accomplish their purposes, and at the same time avoid transgressing the letter of treaty obligations.

A perusal of the inclosed correspondence can hardly fail to impress you with the utter lack of good faith on the part of Chinese officials,

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which renders the settlement of questions such as this, which are constantly cropping up, a matter of extreme difficulty.

I have approved and commended all that Mr. Consul Lord has done, and have instructed him to use all reasonable and proper efforts to save from harm the missionaries at Hangchow, and obviate if possible the necessity of their removal.

It should be stated in this connection that the city where this trouble arose is about one hundred and forty miles from Ningpo, the nearest port.

In responding to Mr. Lord's request for instructions as to the rights of the missionaries and his duty in the premises, I have sent him a copy of my No. 40 to the Department, and the reply approving of my views.

But while my opinion is clear and decided that missionaries have no right to reside permanently away from the open ports, it should, on the other hand, be stated that for some years after the treaties of 1860 were ratified a contrary opinion generally prevailed; nor do the Chinese openly question the right of residence in the interior now, as will be seen from the consul's letters to me.

A retrograde movement on the part of the missionaries would be impolitic now, hence I shall do what I can to keep them where they are in safety. But while doing this I shall not fail to impress upon them that neither treaty right nor good policy will sanction the extension of old or the establishment of new missions in the interior.

The slender compensation which the fees afford the consul at Ningpo hardly warrants him in undertaking long and expensive journeys into the interior on public business. Mr. Lord's trip to Hangchow may properly be considered an extraordinary duty, which was promptly and ably performed. I would therefore suggest that a suitable allowance be made him to cover extraordinary expenditures of the kind alluded to. It is proper that I should say in this connection that this suggestion is made on my own motion, and does not come from any request of Mr. Lord.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Mr. Lord to Mr. Low.

UNITED STATES CONSULATE,
Ningpo, September 7, 1872.

SIR: Intelligence of disturbance at Hangchow, the capital of this province, has just reached us. It seems that the magistrates there have arrested, or are arresting, many or all the persons who have sold or leased property to foreigners; and the state of things in consequence seems to be very unquiet. All the natives connected with foreigners, and even foreigners themselves, seem quite alarmed. The British consul has consulted with me on the subject. His health not permitting him to go himself, he has proposed to send his interpreter up, and I have concluded to go with him to look into the matter, and see what, if anything, needs to be done.

I write this on Saturday night. We shall probably start by the earliest tide tomorrow.

I do not apprehend that any violence will be used toward our countrymen, yet one can never tell at such times of excitement how far the rabble will be carried away by it. I suppose I shall necessarily be absent a week or ten days. I shall write you further on my return.

I have, &c.,

EDWARD C. LORD.

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[Inclosure 2.]

Mr. Lord to Mr. Low.

UNITED STATES CONSULATE,
Ningpo, September 21, 1872.

SIR: I wrote you hurriedly on the evening of the 7th instant, just before starting for Hangchow, stating that I, in company with Mr. Lolbe, representing the British consul here, was going up to look into, and, if possible, allay, the excitement there, growing out of the arrest of and punishment of natives connected with the transfer of lands on which the dwellings, school-houses, and chapels of the English and American missionaries are erected. I beg now to report to you the result of our expedition.

We left Ningpo on the 8th, and arrived in Hangchow on the forenoon of the 11th. Immediately on our arrival, and meeting with a couple of the missionaries, we requested them to call a meeting of all the English and American missionaries in the city at as early an hour as convenient, as we desired to learn in the briefest and most reliable way all we could relating to the present difficulty. These gentlemen readily complied with our request. At 3 o'clock p. m. we met at the house of the Rev. Mr. Lyon all the English and American missionaries residing in Hangchow, excepting one who was ill, and two who were in the country. We asked them to give us all the information they had relating to the origin and history of the present movement. They did so. But I need not repeat their statements here, as they were much the same as those contained in the accompanying letters, which they had written to us before our arrival, but which had not all reached us at that time.

The statements that had reached us before leaving home, supplemented by those made to us now, left no doubt in our minds that the present movement, though not officially so announced, was deliberately directed against foreigners; and that the object aimed at was to get rid of them sooner or later, by making it difficult for them to retain their present places, and impossible to obtain others. We were of course aware that the question has been raised as to whether missionaries have any treaty right to secure dwellings and reside in places other than the open ports. But missionaries were here, and they had been here for many years. No objection had been made to their coming or remaining, either by native or foreign officials. Moreover, they came with the impression that they had this right; for at first such was the popular, if not the official, interpretation of the treaties; and such has always been, and still is, the interpretation of them here by the Chinese officials. Under these circumstances it seemed proper to use our official influence to protect our countrymen, as far as possible, from danger and annoyance while inoffensively pursuing their benevolent work.

Before leaving home I had thought of applying (if application were needed) directly to the footai. But on reaching Hangchow and becoming more fully acquainted with the matter before us, it appeared to me, and Mr. Lolbe likewise, that it would be better for us to put ourselves in connection with the district magistrates—there are two, each presiding over a different portion of the city. They had direct jurisdiction in the matter; and our access to them would perhaps be less guarded and less difficult. Moreover, with the principal of the two district magistrates I was personally acquainted, as he had formerly filled that office for a year or two at Ningpo.

It is true he had been regarded there as an officer of bad temper and bad conduct, yet nothing had occurred to bring him and myself into unfriendly relations. So I might hope to meet him on better terms than if we were entire strangers.

Having decided on the course to pursue, we sent in our cards toward evening on the day of our arrival, asking permission to call the next day at 10 o'clock. They replied that they would receive us at 11 o'clock—they had engagements until that time, it being one of the days set for calling on the footai, (governor.) It occurred to us that they suspected our business, and desired to consult with the footai as to the course to be pursued toward us. This at first was only a suspicion; it subsequently became a conviction.

At the hour appointed we repaired to the district magistrates. Their yamêns were located in the same compound. We called first on Tiao Kwang yen, (Chinese characters,) the magistrate of the Jin-ho (Chinese characters) district. After a little waiting in the reception-room he met us courteously and invited us to our seats. After the usual compliments and small talk, Mr. Lolbe, whom I had requested to act as interpreter, said that we had called on him on a matter of business; and he then proceeded to state that we had been informed that all the persons known to have rented or sold, or aided in renting or selling, places to foreigners in Hangchow had been ordered to be arrested; that a number of them had been arrested, and that two or three had been severely punished. Before Mr. Lolbe had finished his remarks the magistrate interrupted him with the reply that the arrest and punishment of the persons referred to had no connection with foreigners. This remark was made in such a way as to indicate that our attack had been anticipated, and this had been determined on as their method of defense.

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The magistrate went on to remark that the missionaries had long lived in Hangchow, and that it was well understood that they lived there by treaty right, and there was no objection to their securing lots and building houses and chapels. We replied, that if the arrest and punishment of these persons had really no connection with our countrymen, we, of course, had no wish to interfere; but the circumstances were such as to make it very difficult for us to see how the matter did not really and seriously concern them, since proceedings of this kind were calculated to disquiet and alarm them, and, if persisted in, must sooner or later end in driving them away. The magistrate repeated the statement that the arrest and punishment of these men had no connection with foreigners. We replied that it was commonly reported and commonly believed that their arrest and punishment were for having sold, or aided in selling, lots to foreigners. If this report was incorrect it might serve to relieve our misapprehension and quiet the minds of our countrymen, if he would kindly inform us what was really their crime. He replied, "*Pich yau pun fun*," (Chinese characters,) an expression which means not quietly performing their duty, or a want of good conduct. As we did not seem satisfied with this vague answer, he said something about their having made irregular transfers of land. When pressed to state wherein these transfers were irregular he seemed embarrassed, and said that they had demanded exorbitant prices, which was contrary to the treaties. We replied, that so long as the buyer was satisfied, and there was no complaint made of unreasonable demands, it would seem extra-judicial to institute proceedings against them. The ground was then taken that these transfers of the land spoken of as irregular had been made to natives and not to the foreigners; hence they concerned natives and not foreign officials.

It is necessary to remark here that it has been a common custom of the missionaries at Hangchow in securing places to have the deed of conveyance made out, not in their own name, but in the name of some friendly native. And this course, I believe, has been recommended to the English missionaries by Mr. Wade, through the British consul at Ningpo. No official advice, I believe, has been given to our missionaries on the subject, but it has been always my opinion that the lease or deed of conveyance should be made to the person who really owns the property. This is a straightforward way of doing things, and one less liable to objection in many ways; and I have given this advice in a friendly way when my advice has been asked. Had the transfers of property in Hangchow been made direct to foreigners, it is my opinion that the present difficulty would not have occurred, and if it had occurred it could have been more easily met.

We tried to explain as well as we could that these transfers had been made in this way for purposes of convenience; but it was known to all parties, and to the native officials, that foreigners were the real owners of the property which they occupied, though held in the name of natives; and that it was the common opinion that the arrest and punishment of the persons referred to was for conveying property to foreigners, or for conveying it to natives to be used by foreigners, which amounted to the same thing. We thought, therefore, that as they acknowledged the right of the missionaries to reside in Hangchow, and to rent, purchase, or build houses, these men should be released; and that a proclamation, already asked for by the missionaries and promised by the magistrates, should be issued, calculated to quiet the present excitement. After a long and tedious discussion, the magistrate, seeing that we fully understood the matter, and that we were not satisfied with his explanations, leaned over the table, (for we were now at tiffin,) and, speaking in a whisper, apparently so as not to be heard by his attendants, said, that though the matter did not really concern foreigners, yet as we had made a friendly request, as a matter of friendship he would grant it so far as to issue a proclamation, and in a day or two (literally, to-morrow or next day) he would find some excuse to release the men. The proclamation he said he had already prepared, and an attendant brought and showed it to us. There was nothing objectionable in the proclamation, yet it seemed to us too vague to answer the purpose. We suggested this to the magistrate. He said he had at first prepared a fuller form, but he had finally chosen this. He showed us his first draught. We liked the form of that better, but still asked permission to suggest two or three alterations. He readily gave permission, and adopted our alterations.

It was now late, and we left to make our call on the other magistrate, who has jurisdiction over the Tseen T'hang (Chinese characters) district. This magistrate took the same position that had been taken by the other. But it was not necessary to go into the matter so fully with him, as he said he would do whatever his colleague did, as in all such matters they acted together. We had now obtained *in promise* all that we could expect reasonably. The want of sincerity which these officials had manifested did not, of course, afford us the strongest guarantee for their fidelity. However, in their promise they seemed to be sincere, and we left them in the hope that their promise would be fulfilled. Still we chose to remain in the place a few days longer and see.

Our interview with the magistrates occurred on Thursday the 12th. On Saturday, the 14th, we sent our Chinese writers with our cards to request an interview with the magistrates, and ascertain what, if anything, had been done in the matter. They had an interview with the principal magistrate, who told them that nothing could be done

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until the consuls had returned home. This was a new issue, and one not at all calculated to assure us. Our writers also reported that the magistrate had told them that the cause of the present movement was the foreign houses built on the hill over against the fantais (Chinese characters) yamên. The fantai had recently lost a son and a wife, and on consulting with the geomancers they told him that the *fung shuey* had been disturbed by said houses. The fantai complained of the matter to the footai, (governor,) who gave orders to the district magistrates to arrest and punish all who had been engaged in the transfer of lands to foreigners. He said they had replied that they could not arrest those who had acted as agents for foreigners, as they were Christians, but they could arrest the sellers and the middle-men employed by the sellers. And this was what had been undertaken. The magistrate, however, requested our writers not to mention this circumstance to the consuls. Our writers replied that the consuls were fully aware of all this before they left Ningpo.

After this report, made to us by our writers, we determined to have another interview ourselves with the magistrates. So we sent in our cards, saying we would be glad to see them either at their place or ours on the next day. They returned us word that they had engagements for the next day, but they would call on us at our place the day after at 9 o'clock in the morning. So we were obliged to remain and await their convenience.

At the hour appointed we were in attendance. They came an hour late, and, as we soon discovered, in no mood to facilitate our work. They said they had promised us to release the men; they would do so in five days after we left for home; they could not release them so long as we remained. We reminded them of their promise, made to us five days before. They said that at that time they supposed we were going to leave, and what they said then was the language of friendly parting. We tried to impress upon them the idea that promises among officials ought to be held sacred.

There was now much talk on both sides, but with very little progress toward any agreement. They maintained, as they had on the former occasion, that the matter had no connection with foreigners, flatly denying what they had stated to our writers. We maintained that it had a very important and very serious connection with them, as was evident from the present excitement. At any rate, the excitement existed, and we saw no way to allay it and prevent future disturbance but to release the men, as they had at first promised, who, according to the confession made to our writers, were suffering for having done only what was admitted they had a right to do. At last, Yaou, the principal of the two magistrates, lost his temper, and declared that they would not release the men while we remained, if we remained a month or a year, at the same time rudely starting up to leave the hall. He was reminded that we were officers discussing serious matters, and it was important that we should preserve calmness and decorum. He at once became more calm and courteous. He then said, speaking in a whisper, to avoid being overheard by attendants and others crowding about, that they could not release the men while we remained, as it would injure their influence with the people, but if we would leave the men should be released in three days. We did not feel quite satisfied with this arrangement. They had not fulfilled their first promise; what guarantee had we that they would fulfill this? However, there seemed nothing else to do, unless we brought the matter before the fontai; and that, under the circumstances, seemed to us more likely to hinder than facilitate our object. We concluded, therefore, to leave for home, hoping that what was promised would, though perhaps somewhat tardily, be fulfilled.

We left immediately for Ningpo and reached here on the 19th.

I inclose herewith copies of the letters above referred to, calling our attention to the state of things at Hangchow previous to our leaving for that place.

I have, &c.,

EDWARD C. LORD.

[Inclosure 3.]

Messrs. Houston and Helm to Mr. Lord.

HANGCHOW, *September* 3, 1872.

SIR: We, the undersigned, missionaries of the Presbyterian Church (South) in the United States, would respectfully beg leave to ask your attention to some facts which have just occurred in this city, which we deem of interest to ourselves as to other foreign residents here.

The main substance of the facts of which we speak is that proceedings have been instituted by the Chinese officials in this city against natives who have been concerned in disposing of landed property to foreigners. On Sunday, the 1st instant, according to native accounts, a warrant was issued, at the instigation of the fantai, for the

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arrest of eight persons who had at one time been engaged in transactions of this kind with foreigners. Of these eight four are known to have been apprehended, viz, three men who were engaged about six months since in conveying a piece of land to the mission with which we are connected, and one man who sold land about three years since to the American Baptist Mission. The remaining men, whose names are said to have been on the warrant, were concerned at different times in disposing of property to the other missions, American and English, which are represented in this city. Of the three men who were engaged in conveying land to this mission we have had some personal acquaintance with two. One of these is a master stone-mason, named Ouq, doing a good business here, and the other a physician named Be. Both of them are regarded by natives as very respectable men. They are not Christians. They are now confined in the prisons attached to the yamêns of the hsien, (district magistrate.) The warrant ordering their arrest is said to have contained the statement that they were to be examined in regard to their being engaged in practices injurious to the people. The man Onq was decoyed from his house on a false pretext, and arrested in a neighboring tea-shop. He is said to be suffering at present from a severe attack of sickness, and his family have sent to us a request to do all in our power to procure his release.

The immediate cause of the present action of the officials is represented by the natives to be as follows: The property held by the mission of which we are members is situated on the side of a hill facing the yamên of the fantai, (treasurer.) About a month since this official lost one of his children by death, and soon after his wife also died. On inquiring of the soothsayers as to the cause of his misfortunes, he was told that the *fung shui* had been disturbed by the foreign buildings opposite. Upon this he issued orders for the arrest of all persons engaged in selling property on which foreign houses had been erected. We speak of this only as the immediate cause, for we suppose that none here doubt that the general cause is to be found in the old-seated aversion of the upper classes of the Chinese to the presence of foreigners, an aversion which found expression here in the month of May last in the posting of a great number of handbills calling on the people to rise and punish any one found engaged in selling property to foreigners. A specimen of those was, we believe, furnished you at the time of their appearance. As to the demeanor of the people in general toward us, it has been everything we could have hoped for. Indeed, it has been a matter of comment among us within the past year how much the bearing of the people here toward foreigners has improved. Thus far there has not been the least sign of any disturbance coming from them.

We have deemed it proper to advise you of the facts above stated, both because they seem to be the beginning of a course of action against the foreign residents here, which may be extended further, and because we have hoped that you might feel at liberty either now, or after further developments, to take some action looking to the relief of the unfortunate men, whose only crime seems to be that they gave help and comfort to the foreigner. These men have not yet been examined by the magistrate and it is not known, of course, what judgment will be taken against them.

As regards the property which is said to have given offense to the present fantai, it may be proper to say that the larger portion of it was acquired by the mission about three years ago, and that a foreign residence was built on it just a year since.

Neither at the time the land was acquired, nor at the time the house was built, was any objection raised against our course in the matter from any quarter.

In September of last year the hsien, in whose jurisdiction we reside, (Ch'untang-hsien,) sent a request that he might see the title-deed by which we held the property. His request was complied with at once, and a copy of the deed was taken in the yamên in the presence of a member of the mission. Since then we have heard nothing in regard to the matter. On another occasion, just before this, when our place was disturbed by some soldiers, who climbed over the wall of the compound in the absence of the foreigners, the hsien sent a man from his yamên, without any request or representation from us, to assure us that we would be protected from annoyance on our property here. We mention these facts as showing the recognition by the officials here both directly and indirectly of our claim to this property. Indeed, no one here, as far as we know, has ever questioned our right in the matter, nor are we aware of any intention to raise such a question now. We deem it prudent, however, to inform you at present of these facts, as it is not certain that they may not have some bearing on our case here in the future. We will endeavor to keep you advised as anything of further interest may be developed.

Begging leave to offer you assurances of our very high esteem, we remain,

Very, &c.,

M. H. HOUSTON.
BEN. HELM.

P. S.—Since writing the above we have received from Rev. G. E. Moule a copy of the order of arrest which is herewith inclosed. It will be seen that there are ten names included instead of eight. Those marked 0 have already been arrested; the others

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are said to be absent from the city or in concealment. Mr. Moule states that the list includes the former owners of all the property now held by foreigners in the hsien (district) in which he lives, embracing the property held by the American Baptist Mission, American Presbyterian Mission, (North,) and the English Church Mission.

We beg leave to inclose with this a note from Mr. Moule, which he has requested might be forwarded with this.

NOTE.—The copy of the order of arrest, being little more than the names of the accused, is not sent to the Department.

F. F. L.

[Inclosure 4.]

Mr. Moule to Mr. Lord.

HANGCHOW, *September* 3, 1873.

MY DEAR SIR: Last evening I met, informally, all the American missionaries at present in Hangchow to confer on the recent action of the mandarins, of which you will, no doubt, receive detailed accounts from Mr. Houston and others, in suddenly arresting certain Chinese who have been engaged in selling or mortgaging* land to foreign missionaries.

We are unanimous in thinking the case a most serious one; and, although it is possible that one single mission has, inadvertently, specially excited the hostility of the mandarins, the arrests, which have either been made or threatened, include persons who have sold property to all or nearly all of the others.

For our own (the C. M. S.) mission I propose to make a representation to the British consul as soon as I have explicit information of the actual arrest of persons who have sold property to us.

Meantime, as it is thought desirable that you should be assured of our unanimity in viewing the present emergency as critical for us all, I have asked Mr. Houston to be good enough to inclose these few lines with his communication to you.

I am, &c.,

GEORGE E. MOULE,
C. M. S.

P. S.—The only mission in connection with which I hear of proscriptions is Mr McCarthy's. I believe he has purchased no property.

[Inclosure 5.]

Mr. Lyon to Mr. Lord.

HANGCHOW, *September* 4, 1872.

SIR: I suppose you have already received letters from the Southern Presbyterian missionaries in regard to the arrest of certain natives concerned in selling property to foreigners. I write you to-day to add my testimony and to beg you to take such measures as the case may, in your judgment, require. * * * * *

There seems to be no doubt but that it is another attempt to at least hinder all further selling of property to foreigners, and may be the entering wedge to the persecution of all natives who have any connection with us, and thus to make it so bitter that we shall be compelled to leave.

The natives are a good deal excited, and the rumors are said to be bad outside. It seems a threatening matter. I ask you to do what you can.

I remain, &c.,

D. N. LYON.

[Inclosure 6.]

Mr. Lyon to Mr. Lord.

HANGCHOW, *September* 7, 1872.

SIR: I write to inform you further in regard to the difficulties mentioned in my former. Fearing lest longer delay might increase the troubles, after consulting with

* Mr. Lord thinks "leasing" would be a better word to convey the idea intended to be conveyed.—F. F. L.

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the other foreigners, we went together to the yamêns of the Tsien-tang and Jin-hoynen's, and though denied admittance, succeeded in presenting a memorial, a copy of which I herewith forward for your inspection. An answer is due to-day at 3 p. m., which we hope will be favorable, though we cannot tell.

Two of the middle-men of the Kwun-Mis-san property * are now wearing the cangue at the yamên gate. Three friends report that they were beaten with one thousand stripes. On the cangue are written the four characters (Chinese characters). They say they were asked three questions: "What is your name?" "Did you act as middle-men in selling property to foreigners?" Reply: "Yes." "Didn't you know it was against imperial law?" Answer: "No." "Then we will make you know it."

The landlord of the old Bi's property, whose name is (Chinese characters), is still in prison. His friends have been to us for help.

It is a very great misfortune, as we all think, that the affair has gone so far, as it not only affects Hangchow, but all the inland cities of the province.

I speak the mind and desire of all American citizens here when I again earnestly beg you to make the strongest possible representation of the matter to the proper authorities. Meanwhile we wait the reply of the local magistrates with no little anxiety, of which I will inform you.

I remain, &c.,

D. N. LYON.

NOTE.—The copy of the missionaries' petition or memorial to the magistrates is in Chinese, and I have not time to have a translation made.

F. F. L.

[Inclosure 7.]

Mr. Helm to Mr. Lord.

HANGCHOW, *September* 9, 1872.

SIR: Doubtless you have been fully informed respecting the troubles in which the natives, who were instrumental in securing property for the foreign residents at Hangchow, have been involved by the tyrannical action of the native officials. If it may not be too late to express my view, I would briefly state what seems to me to be the true issue.

As we generally hear and believe, the officials have, since last winter, desired to have some action taken, because of the foreign houses built here. But, until the 1st of September, nothing of importance transpired, and we only knew of the state of feeling among them by rumors from natives. Of the anonymous placard posted all over Hangchow in one night last spring, you have also been informed, I believe. We did not much believe it was done by any official, and hence took no notice of it. But the present action appears in a different aspect. You know of the arrest and beating of the two middle-men concerned in the securing of our two places. One of these places was secured for sixty years, using in the transfer the character (Chinese character), (I think this is the character,) which Mr. Inslee told us you had suggested to him as the most appropriate. We have held undisturbed possession now over two years, and no objection was made to our securing it, or since as to our possessing, as far as any public or official act is concerned. The other piece we secured last winter, and no open opposition was made. We only heard that other parties were trying to purchase it to secure the erection of a temple. I do not mean by these statements to say that the treaty gives us an explicit right to buy and to build, but while there is nothing, as far as I know, prohibiting it, neither we nor the natives violated any law of the land, or even acted in the face of any official proclamation.

I observe the treaty guarantees us liberty to be in the interior for twelve months and to preach the gospel. And to stay here with comfort and safety, other than native houses are necessary; hence we have built. The piece of property acquired last winter was bought in the name of a native Christian woman, and hence the middle-man did not act for foreigners in the strict and literal sense. But he was the middle-man in securing the other piece, and was beaten for this as well. Their sufferings are very great. One of the men is over sixty years of age; is an opium-smoker, (although a well-to-do stone-mason,) and his constitution is feeble. He swooned away under the beating. The cangue was put on for three months, and the natives say he cannot survive the treatment, for he is furthermore sick.

Since we last wrote you all the parties in the securing of Mr. Lyon's property have, as far as possible, been arrested.

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* This is the property of the Presbyterian Mission (South) situated on the side of the hill.—E. C. LORD.

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We heard this morning that while the officials promised on last Saturday to issue the proclamation we asked, (and I do not think it at all covered the grounds of the case,) they proceeded to yet further extremities and put the cangue on Be-sien-sang, who sold the land I am now on, to the native Christian woman. His head is all swollen up from the treatment. When the cangue was put on, the official said he would "do it to the death," and sealed it himself. This we learned by one brick-mason, Li, who has acted for us also in securing the above-mentioned land. He learned it from Be-sien-sang's family. He is shut up in the yamên, and cannot be seen; but a relation of his, who is in the official quarters, told his family. Be-sien-sang is a scholar, and our teachers think it cannot be true, as he would have first to be degraded. But the news comes from his own family, and I give it as probably true. The whole course of action is outside of the law, and the people, we learn, sympathize with the oppressed. I am no alarmist, and I do not expect any immediate overt act against our persons or property, but it seems to me that unless stopped, we cannot expect either to again find any one willing to assist us in securing any property, or to remain long in undisturbed possession of what we have. The object seems to be, eventually, to get us out, and if out of Hangchow, why not every other inland city?

Besides, humanity calls on us to do all we can to secure the release and redress the wrongs of the poor innocent men who are suffering for us, in so far as it is possible. Therefore, the case seems to me of general importance and of some urgency.

Hoping you will pardon me for trespassing so much upon your time, I beg to subscribe myself,

Respectfully, &c.,

BEN. HELM.

P. S.—The reason we have not written oftener is because we heard that Mr. Lyon wrote daily.

B. H.

[Inclosure 8.]

Mr. Lyon to Mr. Lord.

HANGCHOW, *September* 9, 1872.

SIR: I write to inform you of the arrest of the landlord of the Fong-loh-Gyao property,* and the son of one of the middle-men.

In answer to our petition, the magistrates both promised to issue proclamations to be posted in our several chapels, schools, and hospitals. But while on the one hand, with all due politeness, they grant what we ask, on the other hand they continue to persecute the landlords and middle-men. I know if we press them to the point they will say, "We are not punishing these men because of their connection with you, but for other offenses." But how could it happen that just the persons who were concerned in renting or leasing us property should all become transgressors at once? Then there is the testimony of the men who have been punished, that they were tried for assisting foreigners in getting property, no other charge being made. Then there is public opinion, which is unanimous in ascribing it to their connection with us.

It is the most complete piece of underhanded management that I have known in China. 1st. The people are arrested on an anonymous charge. 2d. They arrest only either the landlords or the middle-men on the landlords' side; the middle-men on our side, who are either native Christians or personal teachers, have thus far all escaped. 3d. The heavy punishments all fall on those connected with the "hill" property.

Mr. Houston has just been in to say that a man by the name of (Chinese character.) landlord of the property on which their school stands, a physician and sun-dzai, was yesterday put under a very heavy cangue, sealed by the magistrate, who said he should wear it till he died.

We are thinking of going before the footai (governor) and stating that it is known all over the city that these people are suffering on account of the connection with disposing of property to us; that if they did wrong, we are also identified with them in the wrong, and ask their immediate release.

Could you come up and help us through this difficulty?

Meanwhile, we must do what we can for ourselves.

The whole affair seems to have two ends in view: first, if possible, to arouse such a hatred for foreigners as will make it impossible for us to remain here; or, if that cannot be done, secondly, frighten people from having anything to do with us.

Yours, &c.,

D. N. LYON.

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* This is the property occupied as the residence of Mr. Lyon.—E. C. L.

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[Inclosure 9.]

Mr. Lord to Mr. Low.

UNITED STATES CONSULATE,
Ningpo, September 30, 1872.

SIR: My last letter to you, dated the 21st instant, with its several inclosures, gave you an account of the matters at Hangchow so far as known to me at that date. Since then several letters have come to hand from our friends there, and I have written one or two in reply. I now forward you copies of these, from which you will learn what has been done, and what is the present state of things there so far as is known to me at the present time.

I have only to express my regret that the Chinese officials there have done so little of what they promised to do, and that that little has been done in such bad faith. They are evidently personally hostile to foreigners, and are willing to do all they dare to incommode and embarrass them. They regard missionaries as living there by treaty-right; otherwise I am sure it would not be possible for the missionaries to live there. With their understanding of the treaties they are unquestionably treaty-breakers. It is not for me to say whether missionaries are to be protected away from the treaty-ports. But, if they are, it seems to me that the recent and present conduct of the officials at Hangchow should be made the subject of very serious consideration at Peking; while, if they are not to be protected, they should be so informed.

But whatever view may be taken of this matter, there can be no question but that the officials with whom we had intercourse in this matter were singularly wanting in that fairness which we showed them and which we had a right to expect from them.

I beg to inclose herewith copies of six letters received from friends in Hangchow and two copies of letters written to them in reply.

I have, &c.,

EDWARD C. LORD.

[Inclosure 10.]

Mr. Houston to Mr. Lord.

HANGCHOW, *September* 17, 1872.

MY DEAR SIR: I have just received a note from Mr. Moule, in which he states, that as you were about to leave for Ningpo, you used an expression which seemed to show that you had not fully understood the position which the mission of which I am a member holds here on the Chinghwang Hill. Your remark was, that you supposed the hill was a kind of sacred place reserved for temples, &c. Mr. Moule tells me he assured you that it was not exclusively so, and that, in particular, he believed that the house of this mission stood on the site of an old family house, which had been surrounded formerly on every side by residences. Mr. Moule thought, however, that it would be well for me to write to you and give you an explicit statement on this point. I would beg leave, therefore, to say to you that Mr. Moule was correct in his opinion. The property which we hold on the hill is what is known here as the "people's land," and, as far as we know, no temple or other public building ever stood on it.

At the time the city was sacked by the Taipings, the whole face of the hill on which our mission-buildings now stand was occupied by private residences.

Our foreign residence now stands on the site of the former residence of a family named Wang, and our ground, as well as the ground on every side of us, was never supposed by the natives at any time to have a sacred character. As far, then, as the mere effect of a private residence on the "fêng shui" is concerned, those mysterious influences have been liable to disturbance from this cause as far back as the history of the city extends, and we violated no precedent in erecting dwellings here.

Renewing my thanks for the patience and resolution with which you attended to our interests while you were here, I am, &c.,

M. H. HOUSTON.

[Inclosure 11.]

Mr. Lyon to Mr. Lord.

HANGCHOW, *September* 19, 1872.

DEAR SIR: I herewith inclose a copy of the proclamation which came to our several chapels and schools to-day a. m. Up to 11 o'clock this forenoon none of the prisoners had been released, and the two men still wore the "cangue" at the yamên gate.

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Whether the proclamation is what you agreed should be issued or not, of course you are the proper one to decide, as we had not the opportunity of knowing of that matter. I may say, however, that the natives connected with us all regard it as very good, and if only the poor men who are suffering were set at liberty, we should all rejoice that a fair settlement of the difficulty had been made; and until that is done we must still feel anxious.

We have had our chapels open for preaching both yesterday and to-day, and experienced no disturbance. I hope I may be able to add a postscript to-morrow forenoon stating that the men are released, but for the present have no more facts to communicate than what I have already mentioned.

I am, &c.,

D. N. LYON.

SEPTEMBER 20.

P. S.—I have no more encouraging news to communicate. One of the prisoners, U-zeo-peh, has sent a note to our native pastor, asking him to come and visit him at the prison. I believe he and another native expect to go this forenoon.

[Inclosure 12.]

Mr. Helm to Mr. Lord.

HANGCHOW, *September* 20, 1872.

SIR: According to the request you made when leaving, I write to say that yesterday the proclamations were issued. Copies were stuck up at the door of our street chapel and at Mr. Houston's. None were posted at my place; I suppose it was because the property on the hill was all one. There may be other reasons. We knew nothing about it till we saw it on the wall. At all the other missions they were taken in and given to the missionaries. I know of no cause for the difference, and it may be of no consequence.

Up to yesterday noon, I know certainly that the men had not been released. If they had since been released, I should almost certainly have known it. Be-sien-seu, who sold us the lot I occupy, was up this morning to say that the officials still demanded that he should redeem this place. He said he did not wish to do it, and admitted that he could not do it, as we had expended over $1,400 on it.

Mr. Houston proposed to him on our part that if he were willing we would make out new papers. Instead of buying in the native's name, we would "tien" in our own name, say for sixty or eighty years, destroying the deed of purchase and send in this paper for the official seal. If he agrees to this we may do it.

Should you reply please let me have your advice.

Since these troubles we hear the "Yiang Kwets" more than ever; but otherwise there is little change in the people.

Respectfully, &c.,

BEN. HELM.

[Inclosure 13.]

Mr. Lyon to Mr. Lord.

HANGCHOW, *September* 21, 1872.

DEAR SIR: I write to inform you of the result of Tsiang and Yi's (the natives referred to in his previous letter) visit to the prisoner.

They saw but one of the prisoners, U-zeo-peh, who was confined in the "pan vong" with five other prisoners. U-zeo-peh told them that the official sent word to him yesterday forenoon that if he could produce bail he might now be set at liberty. The same offer was said to have been made to Kwang-zuy-seng, the landlord of my property. It is evidently the policy of the officials to come off with "flying colors," and to avoid every possible appearance of having in the least yielded to the pressure from the consuls.

I think that if the men have still to give bail for their good conduct, then we have gained nothing by negotiation.

I suppose Mr. Houston has already informed you of the way the proclamations were posted on the wall outside his gate, and the important parts mutilated the same night.

In the Jin-ho district the proclamations were all brought to us and left with us to

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post in our chapel. In this way the issuing of the proclamations is a mere nominal compliance of the officials with your request, while in the eye of the people the consuls have been sent home in disgrace.

Then there seems to be a general understanding between officials and people, so that I am quite sure, should any disturbance occur, the disturbers would be rewarded instead of punished.

It is apparent to the people that the officials are displeased with our presence here, and this emboldens them to do what they would not dare to do under other circumstances.

I have nothing further at present to suggest, but trust you may have the blessing and guidance of God in your action in regard to the affair.

Yours, &c.,

D. N. LYON.

[Inclosure 14.]

Mr. Helm to Mr. Lord.

HANGCHOW, *September* 23, 1872.

DEAR SIR: I understand that the dzen ho jien, yesterday, set free all the men he had under arrest. Those in the dzien dang jien have not yet been set free. It was rumored that Ong-s wu was to be let out on bail, but as yet he is still in "durance vile."

Mr. Houston and I sent a note to the yamên to inquire why no proclamation had been sent us. (None was brought in, and none even posted at my place, which they dislike.) They replied they had none; they had been already sent to Kwin mi san. I suppose it is of no importance, but all think the not posting a proclamation at my place is intentional.

Respectfully, &c.,

BEN. HELM.

[Inclosure 15.]

Mr. Lyon to Mr. Lord.

HANGCHOW, *September* 24, 1872.

DEAR SIR: I herewith notify you that the Yin-ho magistrate has released the prisoners on their having procured bail, but under very humiliating conditions. As prerequisite to release they were all required to sign a promissory note, a copy of which I send you, the price of freedom varying in different cases. The same note was required of the men who went security for them. The copy I send you was given in from memory by the landlord of Dr. Galt's property. He says the official said to him, in substance, as follows: "On these conditions I let you off for the present offense; but if ever you have anything more to do with foreigners I will cut your head off."

To-day, U-zeo-peh comes to us and reports that he was required to sign a promise to pay in 400,000 cash by the end of the tenth month. He reports that Kwan Zuy sêng, landlord of my property, is also released, and required to pay the round sum of $500. They were all subjected to the same terms and the same threat, differing only in the amount to be paid.

The Kwun Mi San men are still, I understand, wearing the cangue. According to the promise made to you they should have been unconditionally released on last Thursday, five days ago, while, in fact, those of the Jin-ho district were released only yesterday, and that after being compelled to make the above most humiliating promise and receiving the threat of decapitation if ever found engaged in dealings with foreigners. Words cannot express the monstrosity of such measures.

As to the treatment of the poor men in the Dzien Dang district, and the contempt shown to the foreigners on the hill, I suppose Mr. Helm or Houston will keep you posted.

I hope you may be able to bring some influence from Peking, or from some other source, to bear upon these Hangchow mandarins, which will teach them that consuls representing two great nationalities may not be snubbed with impunity, and that the underhanded violation of acknowledged treaty-rights, especially by such brutish treatment of innocent men, cannot go unpunished.

I remain, &c.,

D. N. LYON.

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[Inclosure 16.]

Mr. Lord to Mr. Helm.

UNITED STATES CONSULATE,
Ningpo, September 27, 1872.

SIR: I have to acknowledge the receipt of your communications, dated the 20th and 23d instant; also of Mr. Houston's note of the 17th.

The matter you mention about the proclamation, I should not be inclined to think of much importance. It may have happened from your proclamations being sent from one office, and the others from the other, or it may have been a mere difference in the way of doing things by the different runners. I am sorry not to hear of the release of the men in your district. I think they will be released, though tardily, and perhaps not without much apparent injustice. I much regret that I am not able to prevent this.

The matter of changing the title-deed of your lot you must decide for yourselves. It has always been my opinion that property owned by foreigners should be held in their own name. But the British minister seems to have a different opinion, and possibly our minister may have, also. So, at present, I should not like to give you any positive advice.

Hoping soon to hear of the release of all the men suffering on account of their connection with the sale of lands to foreigners,

I remain, &c.,

EDWARD C. LORD.

[Inclosure 17.]

Mr. Lord to Mr. Lyon.

UNITED STATES CONSULATE,
Ningpo, September 27, 1872.

SIR: I beg to acknowledge the receipt of your several communications dated the 19th, 21st, and 24th instant. I am glad to hear that the proclamation has been issued, and that any of the men have been released, though sorry that their release should be coupled with extortionate demands for money. This, however, you must know, is no new thing in China. It always, or nearly always, happens when, for any cause, just or unjust, persons who have money or friends fall into the hands of mandarins.

I shall, of course, lay the matter you mention, with all others of the case, before our minister at Peking; but I have little hope that anything will or can be done to remedy the evil of which you complain. It might be difficult to set wrongs of this kind right, even at the open ports; to do it in the interior—where the right of foreigners to reside at all will at present not be insisted, I presume, by the English and American governments—would be doubly difficult. You must not lose sight of the fact that your residence in Hangchow is at present but a precarious one. While you are there I shall do what I can to protect you from violence and wrong. But you must know that consuls are not armed with power to do always what they think ought to be done; and they always find it especially difficult to protect natives, even when suffering on our account. It is easy enough to quote the treaty on this point, but then we are always met with the plea that the matter has no connection with foreigners.

This, of course, would be the plea in the present case.

I am, &c.,

EDWARD C. LORD.

No. 47.

Mr. Low to Mr. Fish.

No. 203.] LEGATION OF THE UNITED STATES,
Peking, October 26, 1872. (Received December 26.)

SIR: I have the honor to inclose translation of a dispatch from Prince Kung announcing officially that the Emperor was married on the 16th

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instant, and a copy of my reply thereto. A similar announcement has been made to each of the other legations.

It is not unlikely that what was said at the interview a few days since, when the ministers called to give verbal notice of the same fact, induced the prince to send a more formal notification.

I also beg to send herewith translations of two important edicts, from which it will be seen that the regency will be set aside and the Emperor assume the duties of actual sovereign in the first month of the Chinese new year,* on a day to be hereafter fixed.

The day before these edicts appeared the Official Gazette contained one laudatory of Prince Kung and conferring upon him and his family additional titles and honors.

This, in addition to many other acts recently, points with reasonable certainty to the fact that the prince and his party will continue to be the ruling power in the government when the Emperor assumes the functions of sovereign *de facto*, nor is it likely that there will be any material change in the *personnel* of the foreign office.

If this should prove true, the concessions which most, if not all, foreign governments will demand are not likely to be resisted strenuously. Chief among the questions that will require to be definitely settled is that of granting by the Emperor personal audience to the representatives of foreign governments in a suitable manner. This all European governments will undoubtedly insist on, as soon as the imperial majority is declared. In the absence of instructions to the contrary, it is, perhaps, not unreasonable to suppose that the United States will unite in this demand. It seems to be foreshadowed in the note from the Secretary of State to the Chinese Embassy, under date of June 3, 1868. (See Diplomatic Correspondence, 1868, part 1, p. 603.) I would, however, prefer to have definite instructions on the subject for my guidance. To that end I am sending by this mail to the collector of the port of San Francisco the draft of a telegram to be sent by him to the Department. A copy of my note to the collector is herewith inclosed.

That an improvement in the *status* of the foreign ministers *vis-à-vis* this Government is specially to be desired will not be questioned. If evidence of this fact were needed, the action of the government in connection with the recent marriage ceremonial furnishes it. The representatives of the western powers were treated in a manner which, to say the least, was discourteous, while those from the tributary states were invited, and took part in the ceremony. All foreigners were rigorously excluded from the streets and places through which the procession passed, while natives of all grades above the lowest official rank were freely admitted to the imperial grounds to view the pageant, notwithstanding I was informed in the most positive and solemn manner, by the ministers who came to see me upon this subject, that natives of all grades and ranks would be excluded the same as foreigners. Were it not for the fact that all this has a mischievous influence upon the mass of the people, these incidents would not be worth noticing, much less reporting to you.

In the Chinese view the marriage of the Emperor is one of the most august ceremonials that can possibly occur, in which high officials should participate, and to which all the common people should render homage. On the present occasion officials and people gathered here from all parts of the country, and what they saw and heard will be re-

* The Chinese first month of the new year commences January 29, and ends February 26, 1873, according to our calendar.

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peated in every place of importance in the empire; and it is not unlikely that their impressions gathered while in Peking as to the position which the foreign ministers occupy will be much less favorable than is actually the case. It is in this view, chiefly, that I deem a change in our *status* important. It is hardly necessary for me to say that personal feelings or considerations do not enter into the question.

It may not be amiss for me to here repeat what I have heretofore written to the Department: that in my opinion, if after the Emperor becomes of age a courteous but firm demand for audience be made by all the treaty powers represented here, it will not be refused.

In view of the foregoing considerations, and taking into consideration the near approach of the Emperor's majority, it seemed to me entirely proper and appropriate, when returning a reply to the prince's dispatch, to convey an intimation that the Government of the United States might choose a more appropriate and dignified mode of presenting its felicitations upon so important an event as the marriage of a sovereign of a friendly power than sending a note of congratulation through the ordinary channels of diplomatic correspondence.

Trusting that my views concerning these questions may prove to be in accord with those entertained by the Department, and that what has been done will be approved,

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1]

Prince King to Mr. Low.

PEKING, *October* 19, 1872.

Prince KUNG, &c., &c.:

Informs your excellency that the board of ceremonies have communicated to him the following decree reverentially received from His Majesty the Emperor:

"We having with pious veneration succeeded to the vast dominion founded by our ancestors, and enjoying in its fullness the glorious lot to which we have been destined, have chosen one virtuous and modest to be the mistress of our imperial home.

"Upon the 15th October, 1872, we, by patent, instated Alutê, daughter of Chung Chi, a shi-chiang, in the Han Lin College, as Empress."

This from the Emperor.

In respectful obedience to His Majesty's will, the felicitous act was celebrated on the 16th October, and, as friendly powers ought by right to be apprised of this, the prince, besides addressing the other representatives on the subject, begs to submit the present communication for your excellency's perusal.

A necessary communication.

His Excellency F. F. LOW,
Minister, &c., &c.

[Inclosure 2.]

Mr. Low to Prince Kung.

LEGATION OF THE UNITED STATES,
Peking, October 24, 1872.

SIR: I have had the honor to receive from Your Imperial Highness a communication in which is embodied an imperial edict, as follows:

"We having with pious veneration succeeded to the vast dominion founded by our ancestors and enjoying in its fullness the glorious lot to which we have been destined, have chosen one virtuous and modest to be the mistress of our imperial home.

"Upon the 15th October, 1872, we, by patent, instated Alutê, daughter of Chung Chi, a shi-chiang, in the Han Lin College, as Empress.

"This from the Emperor."

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And that, in conformity with the decree quoted above, the marriage ceremony was duly performed on the 16th instant.

Your Imperial Highness further observes that it is proper and desirable that the information be communicated to all governments in friendly relations with that of His Imperial Majesty, hence this announcement is made to the minister of the United States.

In reply, permit me to express my thanks for the honor done me in sending this note, and I improve this occasion to tender my cordial congratulations upon the occurrence of this auspicious event, which confers additional honor upon and augments the happiness of their Imperial Majesties. It will also insure permanence to the present dynasty in legitimate succession, secure to the empire peace and tranquillity, and to the Emperor's subjects prosperity.

This information will be communicated without loss of time to the Government of the United States, who will undoubtedly receive it with lively satisfaction.

Nor will I permit myself to doubt that my Government will improve the earliest convenient opportunity that may be presented to tender to His Imperial Majesty its felicitations in a manner befitting the importance of the event and the dignity of the two governments.

With renewed assurances of my high consideration, I have, &c.,

FREDERICK F. LOW.

His Imperial Highness Prince KUNG.

[Inclosure 3.]

[From the Peking Gazette, October 22, 1872.]

EDICT.

We have respectfully received the following decree from the empresses:

The country being in a very disturbed state when the Emperor at a tender age succeeded to the throne, the princes and other high officers of state were unable to perform their duties in the absence of any authority to direct them, therefore we were reluctantly compelled to accede to their request that, for the time being, we, the empresses, should act as regents. We at the same time announced that so soon as the Emperor should have completed his studies the supreme authority would revert to him.

We have now for eleven years anxiously and incessantly striven to perform our duties, without allowing ourselves the slightest intermission.

The Emperor has, by assiduous application to his studies, made satisfactory progress, and having now reached the estate of manhood, he should assume supreme control of the government, and, with the assistance of his ministers in the capital and provinces, strive to maintain order and good government, thereby fulfilling with pious veneration the important trust committed to him by his illustrious ancestor, the late Emperor, canonized as the "excellent and virtuous."

We therefore command the astronomical board to select an auspicious day in the first month of the coming year (February, 1873) on which the ceremonies of the Emperor's accession to the throne will be celebrated.

The members of the grand council and the grand secretaries, together with the presidents of the six boards and the nine courts, will, with due care and respect, make the necessary preparations for the ceremony with a view to the restoration of the ancient form of government.

Respect this.

[Inclosure 4.]

[From the Peking Gazette, October 22, 1872.]

EDICT.

We have respectfully received the following decree from the empresses:

We have, by a decree issued this day, ordered the astronomical board to select an auspicious day in the first month of the coming year on which the ceremonies of the Emperor's accession to the throne are to be celebrated.

The great sacrifices performed at the various altars and temples being eminent and glorious, it devolves upon the Emperor to conduct them in person, thereby responding

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in every respect to the heavenly claims and manifesting his devout and sincere feelings.

We therefore direct that, beginning with the great sacrifice to heaven at the winter solstice of this year, the Emperor will thenceforward conduct in person the ceremonies to be performed at the various altars and temples.

Let the proper boards make all the arrangements necessary for the occasion.

Respect this.

[Inclosure 5.]

LEGATION OF THE UNITED STATES,
Peking, China, October 26, 1872.

To the Collector of the port of San Francisco:

Please send, without delay, by telegraph, to the Secretary of State, the following:

"PEKING, *October* 26, 1872.

"Hon. HAMILTON FISH,
"*Secretary of State, Washington:*

"It is officially announced that the regency will be set aside in February next. My anticipations are likely to be realized. See my dispatches of March twenty-second (22) and June fifth (5.)

"If special instructions are deemed advisable, and they have not been sent, the mail leaving San Francisco January first (1) should bring them.

"FREDERICK F. LOW,
"*United States Minister.*"

No. 48.

Mr. Low to Mr. Fish.

No. 205.] LEGATION OF THE UNITED STATES,
Peking, November 6, 1872. (Received January 23, 1873.)

SIR: Referring to my No. 203, of 26th October, I now beg to inclose translation of an edict naming the 23d February, 1873, as the day for the formal transfer of the government of the empire to the young Emperor.

So far as I am able to learn, no intimation has yet been given to either of the foreign legations as to the course the Emperor will pursue when he assumes personal authority.

I have nothing to add to what has been said in previous dispatches concerning this subject.

I have, &c.,

FREDERICK F. LOW.

[Inclosure.]

[From Peking Gazette, November 2, 1872.]

EDICT.

We have received with reverence the following edict from their majesties the empress dowager and the empress mother:

The imperial astronomical board having reported that, in obedience to our command, it had selected an auspicious day for the ceremonies of the Emperor's accession to the personal administration of the government, we accordingly decree that the ceremonies in question take place on the 23d day of February, 1873, and command the several boards concerned to diligently make the necessary preparations.

Respect this.

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No. 49.

Mr. Low to Mr. Fish.

No. 211.] LEGATION OF THE UNITED STATES,
Peking, November 23, 1872. (Received January 23, 1873.)

SIR: Referring to my No. 202, of 23d October last, I have now the honor to inform you that the consul at Ningpo reports the release of all the natives that had been arrested at Hangchow for being concerned in the sale of property to missionaries. From the same and other sources I learn that all is now quiet, and that the missionaries anticipate no farther trouble, for the present at least.

It appears that most of the men arrested were required, as a condition of their release, to give bonds for their future good behavior, and from some a fine was exacted in addition to the bond. Whether the conditions imposed were real or only nominal, I have no means of knowing certainly. The British consul at Ningpo is of the opinion that certain conditions seemed to the officials necessary to make it appear that the men were arrested on charges other than selling property to foreigners, but that there is no intention of compelling the payment of fines or the making of bonds. Upon this point Mr. Consul Lord expresses no opinion.

I have, &c.,

FREDERICK F. LOW.

No. 50.

Mr. Fish to Mr. Low.

No. 115.] DEPARTMENT OF STATE,
Washington, December 21, 1872.

SIR: The Department has received your telegram of the 26th October last, stating that it was officially announced that the regency would be set aside in February next.

The consequent assumption of full authority by the young Emperor will again present the question as to the expediency or necessity for such of the treaty powers as may be represented at Peking by diplomatic agents accredited to him to insist upon that audience with him to which, pursuant to public law, they should everywhere be entitled.

You are aware that there is and always has been in this country a general repugnance to dwell upon or even seriously consider questions of ceremony. When, however, such a question, as in this instance, involves that official equality of other nations with China which they have a right to claim, it becomes more or less a question, not of form merely, but of substance, requiring grave consideration.

The entire segregation of China from the other nations of the globe until a comparatively recent period, which was the policy pursued by her rulers, was mostly occasioned and justified by the fact that, as that empire extended from north to south and from east to west through many degrees of latitude and longitude, it produced everything desirable yielded by both the temperate and the tropical zones. This, owing to the vast population of the region, led to an immense home trade in exchanging the productions of one quarter for those of another. Nothing from abroad being coveted or supposed to be needed, there was

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no occasion either for Chinese to engage in foreign commerce or for them to admit strangers even for commercial purposes. As the productions of that country, however, were not entirely unknown and were desirable in others, and especially in Europe, mercantile enterprise determined to obtain them. This was ultimately crowned with success at Canton only. Even there, however, foreigners were not allowed to mingle with the natives of the soil, generally or freely, but were restricted to their factories, so called, where purchases of Chinese and sales of such foreign goods were made as were required. The spirit of haughty exclusion, however, still prevailed in the country, and as it was antagonistic to that of commercial enterprise, it could not fail, sooner or later, to occasion collisions with foreigners, the first serious one of which resulted in the treaties of 1844. Similar collisions ensued which were settled by the existing treaties. Such collisions with Christian powers can necessarily have no other issue, for, however China in some of the arts may excel other nations, the art of war, at least, has not there kept pace with it elsewhere.

It is understood that the right now in question was urged at the last settlement, but the Chinese would yield nothing further than the privilege for the representatives of the powers to reside at Peking. That of an audience with the Emperor has never been yielded. It is the opinion of the President that on the part of the United States it should now be demanded. You will accordingly make such a demand, not separately, however, but in concert with the representatives of the other powers. Perhaps it may not in the first place be desirable to make the demand imperative. It would seem to be best to proceed by degrees and with due tenderness for the inveterate prejudices and the grotesque conceit of the Chinese courtiers, the undoubted outgrowth of the long ages through which the present system has prevailed without intercourse with the rest of the world, and, therefore, in ignorance of the advances made abroad in civilization and power.

If your well-considered and gradual attempts to compass the object should ultimately fail, the President authorizes you to inform that government that you are directed to suspend official intercourse with it, to await further instructions from here, which will be given, adapted to the occasion.

I am, &c.,

HAMILTON FISH.

No. 51.

Mr. Fish to Mr. Low.

No. 116.] DEPARTMENT OF STATE,
Washington, December 30, 1872.

SIR: Your dispatches, numbered 199 and 203, the latter dated 26th October last, referring to the marriage of the Emperor of China, his attainment of his majority, and the audience question, were received on the 26th instant. Your message, under the same date as the latter of these dispatches, transmitted by telegraph from San Francisco, had come to hand a few days previously, and was made the subject of my No. 115, dated 21st December, which was dispatched from the Department in season, it is hoped, to go forward from San Francisco by the packet of the 1st of January, agreeably to your wish.

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Having already expressed in that instruction my views upon the subject of the audience, I have now to add that your proceedings at the interview between yourself and two of the ministers who called upon you to give notice of the marriage, as reported in your No. 199, are approved, as is also your note to Prince Kung, in reply to his note giving more formal notice of the marriage after it had occurred.

The exclusion of the representatives of foreign countries from the ceremonies of the imperial wedding cannot but be regarded as evincing a state of feeling on the part of the advisers of the young Emperor inconsistent with the rights of friendly powers which maintain a representation at the Chinese court. If China intends to continue an assertion of superiority over all other nations which this exclusive policy seems calculated to foster among her people, the other powers of the world must necessarily be led to take into serious consideration the mode of intercourse with her proper to be adopted under the circumstances, and even the expediency of maintaining relations with a state which manifests so little respect for the rights of others.

It may be hoped, however, that on perceiving how the matter is regarded by the various governments of the world, in view of the measures which may be adopted by the body of foreign representatives, and your action in concert with your colleagues, as indicated in my No. 115, the ministers of the Emperor will be led to adopt a more liberal policy, which shall entitle China to take her just rank as one among many powerful nations, and permit the Chinese people to understand the true position which their country occupies in the world.

I am, &c.,

HAMILTON FISH.

No. 52.

Mr. Fish to Mr. Low.

No. 118.] DEPARTMENT OF STATE,
Washington, December 31, 1872.

SIR: I have received your dispatch No. 202, under date of 23d October, relating to certain proceedings at Hangchow, in which the American missionaries were interested, and covering reports made to you on the subject by Mr. Lord, the consul of the United States at Ningpo, with accompanying correspondence.

I have pleasure in saying that Mr. Lord's conduct throughout the affair was discreet; it deserves and receives the commendation of the Department.

The treaty does not guarantee to missionaries a right to establish themselves in inland places. The local magistrates at Hangchow appear, nevertheless, to have recognized the missionaries as rightfully established at that place, a circumstance which makes their conduct in this case, as detailed in Mr. Lord's dispatches, all the more reprehensible.

It appears that while the missionaries themselves have not been molested, either in person or property, cruel punishment has been visited upon certain Chinese, on the charge, as alleged by the officials, of "want of good conduct," but, as suspected by the missionaries, with apparent cause, in consequence of the connection of these Chinese with

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themselves, and that on the remonstrance of the consul, the Chinese have been released.

No citizen of the United States having been molested, it would seem to be unnecessary to pursue the matter further, except that you will take a proper occasion to point out in the proper quarter the want of good faith displayed by the magistrates in Hangchow in dealing with the affairs, and complain of their failure to fulfill with promptness and exactness their promises to the consul.

It is hoped that this case may serve to bring to the attention of the missionaries the risk which they incur by establishing stations in inland places, and the embarrassment which follows the assumption of privileges which cannot be claimed or defended under the treaty.

An instruction will be addressed to the consul, Mr. Lord, agreeably to the suggestion contained in your dispatch, authorizing him to include in his miscellaneous account rendered to the Department, a charge for the expenses actually and necessarily incurred by him on this occasion, in making an official visit to Hangchow.

I am, &c.,

HAMILTON FISH.

No. 53.

Mr. Fish to Mr. Low.

No. 119.] DEPARTMENT OF STATE,
Washington, January 4, 1873.

SIR: I have to acknowledge the receipt of your dispatches Nos. 165, 166, and 173, dated, respectively, June 20, June 24, and August 7, 1872. As these dispatches all relate to two questions of interest—the binding of Chinese children by contracts of indenture, made between the parents or guardians of those children and American citizens resident in that empire, and the iniquitous practice of kidnapping ignorant and unsuspecting Chinese subjects for the purpose of consigning them to involuntary servitude in foreign countries, in relation to which your official action has recently been invoked—the present is deemed a fitting occasion in which to inform you of the views of the Department on those questions, and also to express to you its approval of your official conduct in relation to them.

No case can be readily imagined which would more forcibly illustrate the cruel and heinous character of the crime of kidnapping than the one of which you give an account in your dispatch of August 7 as having occurred at Tien-Tsin on the 23d of July previous. The seizing of an innocent child and tearing it almost literally from its mother's arms is an act at once shocking to the common sentiment of justice and repulsive to every feeling of humanity.

The conduct of Mr. Meadows, the vice-consul at Tien-Tsin, as shown in his earnest efforts for the recovery of the child and his prompt and energetic action in bringing the perpetrators of the outrage to justice, is alike honorable to his character as a man and as an officer of the United States. His action meets with the warm approval of this Department, and it is desired that you will convey to that officer in fitting terms the information of such approval; and the action of the Chinese authorities in the instant trial and summary punishment of the offend-

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ers is highly creditable to those officials, and at the same time affords grounds for hope that vigorous measures will be adopted by the Chinese government and faithfully pursued by its officers for the suppression and ultimate extinction of this revolting traffic within the limits of the empire.

As the representative of this Government near that of the Emperor of China, you will omit no opportunity of discountenancing the practice, at the same time holding to a strict account any citizen of the United States whose participation in it shall at any time be brought to your knowledge.

In relation to the other question, namely, that of indenturing Chinese children to the managers of Protestant mission-schools, which you present very fully and clearly in your No. 165, and upon which you request the decision of the Department, I have to state to you that in that case, also, your action is approved.

In your note of the 20th of June last to Mr. Wilson, consul at Cheefoo, (inclosure No. 4 to dispatch No. 165,) you express what I deem the correct view of that question, both in principle and policy, so forcibly and justly as to render further discussion of the question unnecessary, or that I should do more than to inform you that your views thus expressed are concurred in by the Department.

No express provision is found in the existing treaties between the United States and China upon which such contracts can rest, and it is believed that no authority to enforce their performance can be derived from those treaties either by expression or fair implication. The consequences, moreover, resulting from frequent disagreements between the parties to such contracts cannot be other than prejudicial to the friendly relations which it is desirable should be cultivated and maintained between the people of China and citizens of the United States resident in that country.

I am, &c.,

HAMILTON FISH.

No. 54.

Mr. Fish to Mr. Low.

No. 120.] DEPARTMENT OF STATE,
Washington, January 8, 1873.

SIR: Your No. 201, of the 21st of October, 1872, in relation to the trial on a criminal charge of a citizen of New Granada by the United States consul at Canton, has been received.

Mr. Jewell had no authority whatever to entertain jurisdiction of the case. That he should have fallen into the commission of such an error with the laws of the United States, the consular instructions and the existing treaties between the United States and China all before him, seems unaccountable. The reasons assigned by the consul for his action can have no influence or weight in establishing as right a proceeding that is *per se* wrong. Under the laws of the United States jurisdiction in a criminal case cannot be conferred by consent even in one of the established courts of record of the country. Much less is this the case with the consular court, which is a tribunal of limited and inferior jurisdiction, possessing only such powers as are expressly conferred by acts of Congress in conformity with the provisions of existing treaties.

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The waiver of their authority in the matter by the Chinese officials invested the consul with no new or additional powers. He is not an officer of that government, and he can derive no authority from it, directly or indirectly, which will give validity to any official action of his, when such action is not warranted by the laws of the United States or his instructions from this Department. Neither can the jurisdiction assumed in this case rest upon the consent of the accused. It would be unreasonable to demand for a prisoner the right not only to select but to create a tribunal for the trial of his own case; but the objection rests on still higher grounds, and in the interest of the accused himself, lest through ignorance or mistake he may misconceive that interest.

The court before which a criminal trial is proceeding will not, as a general rule, permit the prisoner to waive any substantial right secured to him by law, and never without fully advising him of the consequences of his action.

These principles of criminal law and practice are so well settled and so universally recognized in American and English jurisprudence, that any further discussion of them is deemed wholly unnecessary.

In Oriental countries, where, in order to preserve to citizens of the United States, as far as possible, the personal rights recognized as belonging to them in their own country, it is found necessary to have these rights and the privileges that pertain to them precisely defined by treaty stipulation, it becomes all the more necessary that officers of the United States resident in those countries should, in the exercise of their functions, confine themselves strictly within the powers guaranteed by treaty stipulation and regulated by settled principles of public law. Such a course on their part will not only tend to prevent unpleasant complications, but do much to secure from the people of those countries respect for the rights of American citizens resident therein.

Your course in bringing this matter to the attention of the Department at the earliest moment is commended. The action of Mr. Consul Jewell is disapproved and he will receive information of such disapproval directly from the Department.

I am, &c.,

HAMILTON FISH.

No. 55.

Mr. Low to Mr. Fish.

No. 222.] LEGATION OF THE UNITED STATES,
Peking, January 15, 1873. (Received March 29.)

SIR: When the ministers of the foreign office came to make their New Year's call upon me, inquiries were made about the young students now in the United States. In reply, I said that I had seen in one of our newspapers recently a published correspondence concerning them, and had also received a dispatch from the Department upon the subject, and that if it was desired I would send a copy of the one and the substance of the other to them.

The inclosures herewith contain a copy and translation of my note inclosing the paper, and the prince's reply.

The prince's note is exceptional in style, and its tone is unusually cordial. Instead of inclosing the minister's cards with his, (which is

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invariably done in notes emanating from the yamên,) this came with the prince's card alone.

The reason for this is apparent. He desired to impress upon me that he takes a special personal interest in this matter. It was also intended to convey the thanks of himself and the government in a more pointed and emphatic manner than would have been the case had the note been in the usual form.

The kind reception which these youths have met with and the interest manifested in their welfare is very gratifying to the promoters of the scheme for sending them abroad. If the reports from them continue favorable it is not unlikely that the others will be sent faster than was originally contemplated, and also that the total number may be increased.

As Mr. Northrop is included in the prince's note of thanks, it seems proper that he should be furnished with a copy of it. A cover to Mr. Northrop's address is inclosed herewith. It contains a copy of the note referred to; and, if there be no objection, I would thank you to forward it to its destination.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Mr. Low to Prince Kung.

LEGATION OF THE UNITED STATES,
Peking, January 10, 1873.

SIR: In a late American newspaper there appears a circular issued by the board of education of the State of Connecticut addressed to the teachers of the Chinese pupils recently sent from here, and a letter from the guardians and tutors of the students to the secretary of that board. As these letters may prove interesting to your imperial highness and their excellencies the ministers of the yamên, I beg to send them herewith. The English copy, unaccompanied by a Chinese version, is sent, for the reason that a translation made by the president of the Imperial University or some of the students will probably prove more acceptable than one made by translators attached to the legation.

I may add that, in a recent dispatch from the State Department, I am instructed to inform your imperial highness and also his excellency Le-Hung-Chang that the educational mission is regarded with much interest by my Government, and that it will afford the honorable Secretary pleasure to manifest his friendly feeling toward the students should occasion offer.

With renewed assurances of my high consideration,

I have, &c.,

FREDERICK F. LOW.

NEW HAVEN, *October* 1, 1872.

The response to the call for homes and instruction for Chinese boys has been surprisingly prompt and cordial. One hundred and twenty-two families have offered to receive two each, so that homes are open for two hundred and forty-four, while, as yet, only thirty have arrived. The number, and especially the character, of the applicants show that this liberal and far-reaching plan of the Chinese government has enlisted the practical sympathy of philanthropists widely over this country. A desire to aid in promoting the progress of the largest nation on the globe, with the hope that these ambitious boys, when disciplined and equipped by the best education which America can impart in a thorough course of fifteen years' study, will become the exponents of a higher civilization and the benefactors of their country, is the explanation of this general interest in their culture.

My new and numerous correspondents propose many questions, which, burdened as I am with official duties, it is impossible to answer in detail. The commissioners of

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the Chinese government will probably reside in Hartford. For obvious reasons the boys are placed in *towns easily accessible to them*. Hence they have been distributed only in Connecticut and Massachusetts, and those in the latter State are in towns not remote from Hartford. Their continuance in each locality will depend upon the progress made. Though in private families, they are expected to have regular school-hours for study and recitation. They are still boys, and, though studious, exemplary, and bright, need strict control—a kind but firm and steady government.

B. G. NORTHROP.

THE CHINESE EDUCATIONAL MISSION.

OFFICE OF CONNECTICUT BOARD OF EDUCATION,
State-House, New Haven, Connecticut, October 9, 1872.

To the Teachers of the Chinese Students:

The new Chinese educational mission awakens a profound interest as a prophecy of great progress to the oldest and largest nation on the globe. America congratulates China on the inauguration of this noble work and gives a cordial welcome to these ambitious and earnest students. Every possible effort should be employed to make this experiment a success. If wisely managed at the outset, it will expand into broad agencies and vast results. That nothing may be omitted to give efficiency to this comprehensive and liberal scheme, the following suggestions are submitted for your careful consideration:

I. These students should have regular school-hours for study and recitation, as well as for exercise and recreation. So far they seem to be exemplary, cheerful, studious, and promising, but their youth necessitates a parental supervision and watchful control—a kind but firm and steady government. While their habits of prompt and cheerful obedience must be continued, they should be thrown upon their own resources, and trained to self-reliance, self-denial, self-command, energy, and perseverance, and every manly virtue. The Chinese justly despise vacillation and effeminacy. They scorn sloth, love labor, and practice industry and economy. Resisting all temptations to indolence, prodigality, fickleness or irresolution, these boys should emulate that patience and persistence and frugality, which are the pride and practice of the true Chinaman.

II. A regular record should be kept of the branches daily pursued, of the progress made, the deportment of each, and any aptitude shown for special studies. If any student should so underrate his privileges as to become irregular in his habits or negligent in his studies, he should be promptly reported to the commissioners.

III. As these students are preparing for positions of responsibility at home, it is important that they should continue the study of their own language and literature. Hence at least one hour a day will be set apart for each student to devote to the Chinese studies prescribed for him for a period of three months. Thus the knowledge and use of their vernacular will be kept up and enlarged.

IV. Filial piety and patriotism are to be inculcated. Love of country and ambition to become the exponents of our science and culture, and thus the benefactors of their own land, should be an incentive and inspiration to them as soon as they can be led to appreciate their privileges and responsibilities.

V. They should be early instructed in the laws of health, especially as to neatness and bathing, precautions against "colds" in the sudden changes of our climate, protecting the feet and the person, guarding against currents of air, of a sudden chill after violent exercise and when in a perspiration.

VI. For the present, reading, spelling, drawing, and writing, and especially writing simple English sentences, should be their prominent exercises. Geography and arithmetic, and particularly rapid addition and "mental combinations," will soon follow.

The commissioners will frequently visit and inspect the boys, and the continuance of the boys in each locality will depend upon their progress and improvement.

B. G. NORTHROP.

SPRINGFIELD, MASS., *October* 8, 1872.

DEAR SIR: The deep interest you felt toward the young students recently sent by the Chinese government to be educated in this country, as shown by your energetic and prompt action in securing suitable homes for them, calls for some public acknowledgment of your invaluable services on our part. Permit us, therefore, to tender to you, as we now do, our united thanks; hoping the young students also, when they come to years of discretion, will be able to appreciate your efforts for them in their comparatively helpless condition in a strange land.

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We must not fail to mention in this connection the great pleasure we experienced from the cordial welcome the public has shown toward this educational mission, and we feel especially grateful to those good people who have so promptly responded to the call for homes for those young students, where they are cared for, protected, and instructed. It will give us the greatest pleasure to report to the Chinese government this cordial welcome and this generous treatment which we have received of American people.

We remain, dear sir, your obedient servants,

CHIN LAN PIN.
TSANG HANG CHUNG.
YEH SHU TUNG.
YUNG WING.

Dr. B. C. NORTHROP,
Secretary of the Board of Education, New Haven, Conn.

[Inclosure 2.]

Prince Kung to Mr. Low.

A few days since a note was received from your excellency, stating that your Government regards with much interest the sending of Chinese young men abroad for study, and that the honorable Secretary of State would take pleasure in rendering them such aid as he could properly. An extract from a newspaper accompanied your note, which was, without delay, sent to the imperial university for translation.

From these letters the generous and thoughtful kindness of the superintendent of education toward each of the students is plainly apparent. Such generosity is worthy of praise and commendation; it is highly appreciated by this government, and will be gratefully remembered.

When communicating with your Government I beg that you will convey to all who have so kindly manifested an interest in the educational mission my warmest thanks.

Such acts of kindness tend to strengthen and make lasting the sympathy and friendship now so happily existing between your country and mine, a fact which will be as gratifying to your excellency as to me.

With thanks and compliments.

[Card of Prince Kung.]

JANUARY 14, 1873.

No. 56.

Mr. Low to Mr. Fish.

No. 223.] LEGATION OF THE UNITED STATES,
Peking, January 18, 1873. (Received March 29.)

SIR: It was, perhaps, not unnatural to suppose that as the time approached for the Emperor's assumption of personal authority, some indication as to the course he would pursue with reference to the claims that are almost certain to be advanced by foreign governments, looking to a recognition of diplomatic equality, would be given.

The fact is, however, that nothing has yet appeared which affords the slightest clue to the decision that has been come to concerning these questions. The prince and ministers are reticent, and when the subject is broached they decline to discuss it. In my personal interviews with the ministers recently the subject has not been alluded to, for the reason that, in my opinion, it is the wiser and more dignified course to abstain from such discussions until the appropriate time arrives.

Some of my colleagues, not agreeing with me in this opinion, have endeavored to obtain from the yamên, if not a promise, some decided opinion. All their efforts in that direction have been met by the same answer, "We cannot assume to discuss the question, much less decide

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it; it is one which the Emperor can only decide when he assumes the duties of sovereign *de facto*."

The French minister informs [me] that he has commenced discussing with the yamên the points of treaty revision. His chief object in beginning the discussion now is to reach the audience question through the second article of the French treaty of 1858. It may be doubted whether this discussion will result in any good. I see no reason to modify the opinions expressed in previous dispatches concerning this subject. Time, and time alone, will determine whether I am correct or not.

I have, &c.,

FREDERICK F. LOW.

No. 57.

Mr. Low to Mr. Fish.

No. 231.] LEGATION OF THE UNITED STATES,
Peking, February 20, 1873. (Received April 21.)

SIR: The third commercial rule appended to the treaty of 1858 designates munitions of war and salt as contraband, which can neither be imported nor exported.

About a year ago a quantity of shell, ordered by the Japanese government through an American house, arrived at Shanghai, *en route* to their port of destination, Nagasaki. Notice was given to the proper authorities that such goods were on the way, and, when the ship arrived, application was made for permission to transship them. The customs authorities refused the permission asked for and seized the goods. The case was tried by a properly constituted court and a decree of confiscation rendered. Subsequently, through the intercession of the consul-general, and upon the owners giving a bond in the full value of the goods, they were released and reshipped to their destination. The condition of the bond was, that the case should be referred to Peking for re-examination by the yamên and the legation, and if, after such examination, it should be decided that the seizure and confiscation were warranted by the terms of the treaty, the sum named should be paid without further question. The owners of the goods were not charged with fraud or evasion; on the contrary, it was conceded that they acted in good faith, not supposing that the bringing of contraband goods into a treaty port, merely for the convenience of reshipping them to foreign countries, would subject them to confiscation or their owners to any other penalty. In presenting the case to the yamên, I asked for the cancellation of the bond, and also that a definite rule should be made and promulgated for regulating transshipment of such goods in the future. After considerable discussion it was agreed that the bond in question should be canceled, the yamên conceding the point on the score of equity alone. This concession was coupled with a declaration that after a certain date transshipment would not be allowed, and that if contraband goods arrived after the time named they would be confiscated. (See inclosure No. 1.) To this I replied, (inclosure No. 2,) objecting to the proposed rule as being in conflict with treaty right, and declining to issue orders to the consuls in accordance with the yamên's request. Further discussion and correspondence ensued, in

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which the position on either side was restated and the question argued without reaching any definite result.

In a note received a few days since from the yamên, (inclosure No. 3,) the ministers indicate that they are ready to abandon their position; they now propose to allow transshipment of munitions of war upon conditions which practically concede all that has been contended for. To this I have replied, (inclosure No. 4,) accepting, with certain reservations, the proposition.

The question is, I trust, practically settled in a manner which will facilitate trade and at the same time work no injury to the Chinese government.

The effect of all this will probably be that most of the war material needed for Nagasaki and ports in the inland sea will come to Shanghai for reshipment, and, as American steamers practically control the carrying-trade between Shanghai and those ports, it is obvious that this arrangement will prove of considerable value to our commercial interests.

In view of the facts above stated, I would respectfully suggest that the Treasury Department be informed of the new regulation.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Ministers of the Yamên to Mr. Low.

PEKING, *June* 21, 1872.

Your excellency is aware that some time ago the tsungli yamên sent instructions to the superintendent of trade and the inspector-general of customs to investigate and decide, in concert with the taotai of Shanghai, the claim against the China and Japan Trading Company growing out of the importation and transshipment of eighty-four cases of shell.

On the 15th instant we received a communication from the superintendent of trade in which his excellency states that Mr. Hart, after his arrival at Shanghai, wrote on the 27th April to Taotai Shên to inform him that the object of the importation of shell by the aforementioned company had actually been to transship these goods for conveyance to Japan; permission ought, therefore, to be given to send them on, and the bond issued by claimants should be cancelled; but this case having been settled, no further importation of munitions of war ought to be allowed.

Mr. Commissioner Dick issued his first notification on the 30th July, 1871, thinking that it would come to the knowledge of everybody near and far. It seems advisable, however, that Mr. Dick should now publish another notice to the effect that munitions of war, arriving from foreign ports at Shanghai, will, after having been duly reported to the customs, either be sent off again in the same vessel, or allowed to be transshipped for re-exportation, but all on condition that the vessel has sailed from the foreign port before the 7th May, 1872. If, however, munitions of war should arrive within the limits of the port of Shanghai in any vessel which left home after the before-mentioned date, such goods will neither be allowed to leave again in the same vessel nor to be transshipped and re-exported, but will be regarded as contraband and forthwith seized and confiscated by the customs. Thus a uniform rule will be established, and the merchants will understand that a violation of the rules takes place as soon as a vessel with munitions of war on board enters the limits of the port, though no landing of these goods be effected; and they will further understand that the transshipment of munitions of war being interdicted, it is of no use to import these articles with a view of shifting them from one vessel to another.

These propositions of the inspector-general were communicated to Mr. Dick by Shên, taotai, and a definite course of action will be decided upon as soon as Mr. Hart, who left for Kuangtung on the 4th May, shall have returned.

The tsung li yamên beg to add the following remarks:

Rule 3 of the treaty distinctly prohibits the export and import of contraband goods, and although transshipping such goods is different from selling them, the fact is they

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have been transported to the place, and not less a fact that they have been imported and exported.

Even granting that nothing but the simple transshipment takes place, and no fraudulent action be intended or perpetrated, yet such action constitutes, properly speaking, a violation of the treaty prohibition.

Now, as regards the claim of the China and Japan Trading Company, the inspector-general has ascertained that nothing but the transshipment of the goods in question was intended, and that otherwise no irregularity was connected with the affair; we shall, therefore, in this case follow an exceptional course of forbearance and release the goods without a fine, as well as allow the bond given by the company and deposited with the customs to be cancelled. To effect, however, an efficient arrangement it will be necessary to hereafter set distinct bounds with regard to the importation of the forbidden article, and to draw up a special and severe rule based on the treaty regulations. The inspector-general's proposition, to let the commissioner of customs issue a notification informing the merchants that the 7th of May is the limit by which it will be decided whether munitions of war are to be released or confiscated, is not only distinct, comprehensible, and easy to apply, but it also prevents the merchants from committing errors at the outset, and thus subjecting their goods to seizure and subsequent embarrassment. While insisting upon this prohibition, founded on treaty rules, we at the same time show our willingness to make allowance for the merchants.

We have sent a reply to his excellency the superintendent of trade, who will instruct the taotai that as soon as the inspector-general shall have returned from Kuangtung to Shanghai he is to meet him and they are to effect the publication of the proposed decree.

We request your excellency likewise to give notice of this arrangement to your consul.

The date mentioned, however, being already past, the inspector-general will, after his return to Shanghai, again have to decide in concert with the taotai what other month shall be fixed as the term by which the proceedings in cases of importation are to be regulated. As soon as their decision shall have been reported to us, we shall not fail to apprise your excellency of its purport. In the mean time we avail ourselves of this opportunity, &c.

[Cards of the ministers.]

[Inclosure 2.]

Mr. Low to Prince Kung.

LEGATION OF THE UNITED STATES,
Peking, June 28, 1872.

SIR: I have had the honor to receive from their excellencies the ministers of the yamên a note, informing me that the case of transshipment of shell to Japan by the China and Japan Trading Company has been decided; that the company is released from all responsibility, and that orders have been given to cancel the bond.

This case, the ministers say, is exceptional, and cannot be considered a precedent; and it is announced that after a certain date, hereafter to be named, all munitions of war brought within the limits of any of the ports, whether for sale or transshipment to a foreign country, will be confiscated.

In reply, I have the honor to inform your imperial highness that the adjustment of the particular case in question in accordance with the principles of justice and equity, and, as I believe, according to the letter and spirit of the treaties, is highly satisfactory.

I cannot, however, concur in the yamên's construction of rule 3, of the supplementary treaty of 1858, that goods brought into a port for the purpose of transshipment to a foreign country can be considered either an "import" or an "export" in any proper sense.

In view of this, I do not feel at liberty to advise my countrymen that it will be their duty to conform to the notification indicated in their excellencies' note so far as the transshipment of contraband goods is concerned. If such goods should be brought into the ports by American merchants, with no intent to land or sell them in China, and an attempt be made to confiscate them, I should feel bound to protest against such proceedings.

But while firmly insisting upon the right of transshipment, no objection will be offered to the adoption and enforcement of rules which would absolutely secure the government against fraud. In foreign countries it is usual in such cases to demand a bond of the owner of the goods equal in amount to their full value, conditioned that he will produce a certificate from the authorities of the port to which they are destined, showing that they have been regularly landed there.

Upon the production of such certificate within a certain time named, the bond will be cancelled, otherwise it will be enforced. Such a regulation, if adopted at the ports,

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would secure the government against fraud, nor would it prove a hardship to the honest merchant.

In view of these considerations I have most respectfully to request that your imperial highness and their excellencies the ministers of the yamên will carefully reconsider this whole question, in the hope and confident expectation that a solution, more in accordance with the spirit of the treaty and principles of justice than the one proposed in the yamên's note, will be found.

With, &c.,

FREDERICK F. LOW.

[Inclosure 3.]

The ministers of the Yamên to Mr. Low.

* * * * * * *

In the month of August the inspector-general reported that the enforcement of the rule as proposed would work great hardship to the merchants, whereupon we directed him to reconsider the whole matter, and suggest some new plan. In response to this, Mr. Hart reported, on the 3d January, 1873, as follows:

"By treaty merchants are prohibited from importing or exporting munitions of war for sale; but the bringing of such goods into a treaty port for transshipment is not, properly speaking, either an import or an export; it is therefore proposed to allow them to be transshipped under the following conditions: When a vessel, having munitions of war on board, enters a treaty-port, the consignee must report the fact, and also that they are intended to be transshipped.

"And the consignee of the goods in question must, before making application for a transshipment certificate, enter into a bond to be executed before his consul, binding himself to transship the goods within a number of days hereinafter named, or to forfeit three times their value.

"The time within which transshipment must be made will be fixed by the commissioner of customs, not to exceed, however, in any event, fifteen days. No contraband goods must be landed; and the customs will take such precautions as may be necessary to prevent fraud in transshipment. Whenever an invoice of such goods shall have left the port, the bond in such case shall be cancelled and surrendered.

"In case the goods are to proceed to their destination in the same ship, the consignee of the vessel must, previous to obtaining permission to break bulk, give the bond provided for above."

The yamên finds the propositions of the inspector-general equitable and proper; the only thing to consider is the question of time. The commissioners of customs should take the circumstances of each case into consideration and decide upon the time necessary for transshipment; it must not exceed, in any event, fifteen days.

Having issued instructions in accordance with the foregoing to the superintendents of trade and the inspector-general, we now beg your excellency to instruct the consuls that the above rules are in force and must be complied with.

It must be borne in mind that according to the treaties, munitions of war cannot be imported or dealt in within the limits of the empire. Heretofore this prohibition has been strictly enforced. With a view, however, of facilitating commerce, the foregoing rules have been laid down by which contraband goods may be brought into a Chinese port when *in transitu* to a foreign country.

Should it be found hereafter that the rules are evaded, and, under cover of transshipment, contraband goods are brought in and sold, the rules will be rescinded, and all importation of such goods for whatever purpose stopped.

We especially request that your excellency will cause this to be made known to the merchants at the ports.

With, &c.

[Cards of the ministers.]

JANUARY 21, 1873.

[Inclosure 4.]

Mr. Low to Prince Kung.

LEGATION OF THE UNITED STATES,
Peking, February –, 1873.

SIR: I have had the honor to receive from their excellencies, the ministers of the yamên, a note concerning a question which has been the subject of discussion between

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the yamên and the foreign legations—the transshipment of munitions of war within the limits of a treaty-port.

The ministers, after referring to former discussions on this subject, and certain propositions which proved unacceptable, now propose that munitions of war entering a Chinese port, when *in transitu* to a foreign country, may be reshipped under certain conditions and sent on to their destination.

In reply, I have to inform your imperial highness that the rules proposed will generally answer the purpose. Cases may, however, occur in which a strict enforcement of the conditions would work injustice.

The penalty prescribed for violations of the regulations is excessive, and might, with great propriety, be reduced. On that point, however, I shall offer no serious objection. If the honest merchant can be protected from liability arising from unforeseen circumstances, no objection will be made to the infliction of severe penalties in cases where fraud can be proven.

I am, therefore, prepared to accept the yamêns' proposal with this reservation: When, in any given case, it shall be made to appear to the consul that, in consequence of exceptional circumstances, it was impracticable to complete the transshipment within the time named in the permit, and that no fraud or collusion has been practiced or attempted, proceedings to enforce the bond given in the case shall not be instituted until the facts are made known to the minister in Peking, and orders to that effect have been received from him.

It must also be clearly understood that if now, or at any time hereafter, more favorable terms are granted to the merchants of any other nation, citizens of the United States shall enjoy the same advantages.

I may add that if the yamên mean to assert that the arrangement proposed is a concession entirely outside of the treaty, which may be granted or withheld at pleasure, such a declaration cannot be accepted as a correct interpretation of treaty right. In my view the bringing of contraband goods, when *in transitu* to a foreign country, into a treaty-port for the purpose of transshipping them to their destination, does not constitute an "import" or "export" in any proper sense, and therefore is not prohibited by treaty.

I have, &c.,

FREDERICK F. LOW.

No. 58.

Mr. Low to Mr. Fish.

No. 232.] LEGATION OF THE UNITED STATES,
Peking, February 22, 1873. (Received May 23.)

SIR: An incident having a bearing more or less direct upon certain questions soon to come up for discussion, and I hope settlement, happened a few days since.

On the 18th instant three members of the foreign office wrote to the German minister to say that they proposed to pay him a visit on the following day. The intended visit, they said, was for the purpose of performing a duty with which they had been charged by the prince—delivering into his hands a letter from their sovereign addressed to the Emperor of Germany. They further said that the letter in question was a reply to one which the German minister had handed to Prince Kung when the former returned from Europe last autumn.

Baron Rehfues replied, saying that it would afford him pleasure to receive the visit of the ministers, but it was impossible for him to say beforehand what course it would be proper for him to pursue with reference to the letter; he also said that it was not apparent how a reply could with propriety be made to a letter, a copy of which only had been delivered. He further remarked that the original of his letter of credence was still in his possession where, under his instructions, it must remain until a convenient opportunity should be afforded for delivering it to the Emperor in person.

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Later in the day Baron Rehfues consulted his colleagues about the matter, and all agreed that he should avoid in the best manner possible, and in a way least likely to give offense, receiving the letter; for it was apparent that this move could have but one meaning—an attempt to forestall the action of the foreign representatives who would desire to present their letters of credence to the Emperor as soon as he assumed the duties of sovereign *de facto*.

It should be mentioned in this connection that Baron Rehfues holds three separate letters of credence, (from Prussia, the North German Confederation, and Germany,) copies of which were at different times placed in the hands of Prince Kung within the last ten years. No replies were ever sent or proposed to the first two, and none offered to the last until now, less than a week prior to the Emperor's coronation.

After the consultation with his colleagues before referred to the German minister sent his interpreter the same evening to the senior of the three ministers before mentioned, to say that it would be more satisfactory if they were to come in the first instance without the letter. If, after hearing what they had to say about the matter, it should be considered proper to receive and forward the document, it could be sent or brought to the legation afterward; if it should be decided that he could not receive it, the plan suggested would relieve the ministers from the disagreeable necessity of taking the letter back again to the prince. The interpreter was further directed to say that this suggestion was made after consultation with all his colleagues and that it had their cordial assent.

At the time appointed the three ministers came, but without the letter. The Baron explained to them, in considerable detail, his view of the whole matter, and gave the reasons why he could not consistently receive and forward the letter, chief among which was the fact that the original of the one to which this purported to be a reply was still in his possession, and which he expected to deliver to the Emperor in person very soon. The Chinese minister declined to venture an opinion as to the time when the Emperor will be willing to see the ministers of foreign governments, or to discuss any question except the particular business with which they had been charged, and all attempts to elicit an opinion as to what the Emperor will do when he comes to the throne next week, were fruitless. Their replies were constrained and evasive.

I have, &c.,

FREDERICK F. LOW.

No. 59.

Mr. Low to Mr. Fish.

No. 233.] LEGATION OF THE UNITED STATES,
Peking, February 25, 1873. (Received May 23.)

SIR: In conformity with the decrees issued in October last, the Emperor was, on the 23d instant, duly invested with full power as sovereign of the empire.

In the afternoon of the same day a circular note from the foreign office, officially announcing the fact, was received at each of the foreign legations. A translation of this note I have the honor to send herewith.

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The promptness of the yamên in making known the fact of the Emperor's assumption of authority was so exceptional as to excite remark; it seemed to indicate that the ministers were prepared to discuss the new questions arising out of a change in the government. This punctuality of the officials in giving the notification appeared to demand an equally prompt response; nor did it seem wise to omit taking advantage of this occasion to bring to the notice of the prince a question which has remained in abeyance since the treaties were signed in 1858 and 1860. It was also thought advisable to let our replies take the form of a collective note rather than separate or identical ones, as the former would indicate that there is entire accord among the five powers represented here as to the necessity of some public recognition of the equality of foreign governments; it would also be likely to impress the imperial government more strongly with the importance and gravity of the question, and of the necessity for its prompt and satisfactory settlement. A copy of the reply in French and English is transmitted herewith.

The request for audience, you will observe, is made in respectful and polite terms. No reason, other than a desire to tender on behalf of our respective governments our respects and congratulations, is assigned for our request. If further discussion becomes necessary, which is not unlikely, an opportunity will then be afforded to present other and perhaps stronger arguments, such as the necessity of presenting letters of credence, and the propriety of extending to the representatives of the treaty-powers courtesies similar to those accorded to Chinese embassadors in Europe and America.

I may add that I am, as yet, without information as to the views of the Department upon this question. As, however, a refusal on my part to unite in the request for audience would have prevented joint action by the other ministers, and as delay in making the request would be likely to lead the Chinese to oppose more strongly compliance, I had no hesitation in joining in a movement which I believe to be necessary and which my judgment fully approves.

I trust the Department will take the same view of the matter and approve of what has been done.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Prince Kung to Mr. Low.

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

A dispatch has been received from the board of ceremonies to the effect that that board had been honored by a special decree from His Majesty the Emperor, as follows:

"We are the humble recipient of a decree from their majesties, the two empresses, declaring it to be their pleasure that we, being now of full age, should in person assume the superintendence of business, and, in concert with our officials in the capital and the provinces, attend to the work of good government.

"In respectful obedience to the commands of their majesties, we do in person enter upon the important duty assigned to us on the 26th day of the 1st moon of the 12th year of the reign of Tung Chi." (23d February, 1873.)

As it is right and proper that all friendly states should be informed of the fact before stated, the prince, besides addressing a communication to the ministers of all other powers, sends this communication to Mr. Low.

A necessary communication addressed to the American minister, Mr. Low.

Tung Chi, 12th year, 1st moon, 26th day. (February 23, 1873.)

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[Inclosure 2.]

Messrs. Vlangaly, de Rehfues, Low, Wade, and Geofroy, to Prince Kung.

PEKING, *February* 24, 1873.

SIR: The undersigned, envoys extraordinary and ministers plenipotentiary of Russia, Germany, the United States, Great Britain, and France, have respectively received an identical note, by which his imperial highness Prince Kung has made known that His Imperial Majesty the Emperor of China had attained majority, and that on the 23d of February (26th day of the 1st moon of the 12th year of Tung Chi) he took into his own hands the administration of the government of the empire.

The undersigned can only express their joy at so important an event for China's prosperity; and they would fail in their duty were they to omit availing themselves of this opportunity to present in the name of their governments their respects and congratulations to His Majesty the Emperor.

To this end, they have most respectfully to request that his imperial highness will lay before the throne this expression of their desire and take His Imperial Majesty's orders with reference to their reception.

The undersigned beg your imperial highness to accept the assurances of their high consideration.

VLANGALY.
DE REHFUES.
LOW.
WADE.
GEOFROY.

No. 60.

Mr. Low to Mr. Fish.

No. 236.] LEGATION OF THE UNITED STATES,
Peking, March 8, 1873. (Received May 23.)

SIR: I have to thank you for the instructions contained in your No. 115, which reached me at an opportune moment.

Your views concerning the whole question are comprehensive, and just to all concerned; and the instructions furnished me for my guidance do not vary in the smallest particular from those I would have prescribed for myself, had the whole matter been left to my own discretion.

The importance of the question, and the necessity that exists for its proper and speedy settlement, cannot well be overestimated; therefore, to press for its solution now is, in my judgment, a duty which all the treaty-powers owe alike to themselves and the Chinese. If it is not settled now, it probably never will be through peaceful agencies. By this I would not be understood as asserting that the refusal of the Emperor to receive foreign ministers could be properly considered a *casus belli*. What I do mean is, that unless a public recognition of the entire equality of other nations be made in the manner proposed, without conditions that would be considered derogatory, relations will grow worse and worse, until some overt act is committed which will provoke hostilities.

I have not failed to note your observations upon the small value which the Government and people of the United States place upon questions of ceremony. In this connection I beg to say that to such questions generally I attach little importance—less, I expect, than most of our people do. In the present case, however, substance is involved in form and ceremony, and cannot well be separated.

It may be doubted whether delay in making an effort looking to rec-

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ognition of equality, now that the Emperor is on the throne, would be less harmful than a refusal of the demand when once it is made, for the Chinese fully expected it as soon as the Emperor attained his majority, and any hesitation on the part of foreign governments would have been set down to cowardice.

My action, as reported in my No. 233, only anticipated your instructions a few days; in the future I shall endeavor to follow the directions laid down by the Department in a prudent and careful manner.

Speculations as to the future would be valueless; therefore I shall content myself with reporting, from time to time, events as they occur.

I have, &c.,

FREDERICK F. LOW.

No. 61.

Mr. Low to Mr. Fish.

No. 237.] LEGATION OF THE UNITED STATES,
Peking, March 13, 1873. (Received May 23.)

SIR: Referring to my No. 233, of 25th ultimo, I have now the honor to inform you of what has transpired since, concerning the same subject.

On the 1st instant the ministers of the yamên sent an identical note to each of the five legations, a translation of which is sent herewith. (Inclosure No. 1.) The tenor of this note betokened an attempt at delay, and nothing else; for if the illness of one of the nine members of the foreign office could be considered a valid reason for postponing the consideration of so important a question, it might be doubted whether we would see all the ministers in robust health at the same time for some months to come. The proposal to visit each of the foreign representatives separately was an indication of a desire to ascertain how far each would go in support of the request made in our collective note of 24th February.

In view of these considerations it seemed advisable to take steps to prevent useless delay, and also to preserve, as far as possible, solidarity of action. It was accordingly determined to send the senior interpreter (M. Bismarck) of the five legations to the yamên to say, in our names, that we had received their note; that we regretted to learn of the illness of the grand secretary, Wênsiang, and hoped it would not prove serious; that if, in the opinion of the yamên, it was necessary to have personal discussion about the subject of our collective note before returning a definite answer, and Wênsiang's illness seemed likely to continue for some days, we should, to avoid delay, be compelled to ask the prince to meet us and discuss the matter. He was also instructed to say that, as our note was collective, we would prefer that the personal interview should be a conference at which all the signatories would be present. Herewith I beg to inclose the *procès-verbal* of M. Bismarck's interview with the ministers on the occasion referred to. (Inclosure No. 2.)

On the 5th instant two secretaries of the yamên called on M. Bismarck, the interpreter of the German legation, to say that Wênsiang's leave would expire on the 10th instant, and that after that date, if his health would permit, no time would be lost in appointing a day for an interview. The tone and manner of the secretaries, coupled with the indefinite and excusatory nature of their message, left the impres-

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sion that their visit was a preliminary step to a further postponement of the discussion. From all the information obtainable it seemed probable that the yamên would resort to any and all means to delay action. It was, therefore, determined to send another collective note to the prince, calling his attention to our previous one, and impressing upon him the necessity of prompt action. A copy of this note in French and English is transmitted herewith. (Inclosure No. 3.)

On the 7th instant the yamên sent an identical note to all the legations, and subsequently the prince sent one to the ministers jointly, naming Tuesday, the 11th instant, as the time, and the Russian legation as the place, for a conference. Translations of these two notes are inclosed. (Inclosures 4 and 5.)

The substance of what was said at that interview is embodied in the memorandum herewith. (Inclosure *b*.)

It is too early to say what will be the final result. It has been my opinion from the first that nothing less than the united purpose of all the governments represented here would cause the Emperor to accede to the request now made; nor have I seriously doubted that if the Chinese government could be given to understand clearly that the five powers before referred to were in accord upon this subject, and were determined to insist upon this public recognition of their equality, the point would be yielded.

Nothing has occurred, as yet, to change these opinions.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Ministers of the Yamên to Mr. Low.

PEKING, *March* 1, 1873.

SIR: We had the honor to receive, on the 24th of February, the collective dispatch of your excellency and the other foreign ministers; and the members of the yamên were intending to go to your legation for the purpose of having an interview with your excellency on the subject.

But it so happens that His Excellency Wên has applied for leave on account of illness, which will cause a delay of some days. Our special object in writing you to-day is to acquaint you with this circumstance. As soon, however, as Minister Wên shall be convalescent and his leave shall have expired, a day will be named on which we shall all pay you a visit and confer with you about the question.

We avail ourselves of this opportunity to send you our best compliments and wishes.

[Cards of all the ministers except Wên Hsiang.]

[Inclosure 2.—Translation.]

Procès-verbal of an interview between Monsieur Bismarck and the ministers Tung and Chêng, at the Tsung-li-Yamên, on the 2d of March, 1873.

In pursuance of my instructions, I went on Sunday, the 2d March, at 2 o'clock, to the Tsung-li-Yamên, preceded by the ting chais of the five legations, each one furnished with the card of his respective minister.

The Chinese ministers had been informed at 10 a. m. that I should come to speak to them on important business, but on arriving I found the Minister Tung only. He expressed astonishment at the cards of all the representatives, and I hastened to explain to him that I came as general interpreter for the five foreign ministers, and that my mission related to the identic dispatch which had been sent to the legations on the previous day.

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I then inquired whether I might hope to see some of his colleagues, and he said that one or the other would probably be there shortly.

He then complained of the great amount of business with which the mandarins in his position were overwhelmed since the accession of the Emperor, business which occupied them continuously, beginning at 3 or 4½ in the morning and lasting till evening, to say nothing of the great responsibility which weighed upon them.

During this the Minister Chêng Lin had come in, and I began to execute my commission. In the name of the five foreign representatives, I expressed the regret they felt at the illness of the Minister Wên, and their hope that it would not last long.

The Minister Tung, interrupting me, said, "I fear you do not feel convinced of the illness of the Minister Wên, but I assure you that he is really very unwell."

M. BISMARCK. Considering the bad health of his excellency there is no reason to doubt that he is actually ill, but it is most unfortunate that this illness should coincide with a time when there is so much to negotiate between the Tsung-li-Yamên and the foreign ministers.

Minister CHÊNG. His Excellency Wên felt this acutely. You will believe in his illness when I tell you that he did not himself apply for leave, but that, on the occasion of an audience on the day before yesterday, His Majesty had been so struck with the unusual and sickly appearance of the minister that His Majesty took the initiative in inviting him to retire from business for a few days.

M. BISMARCK. And you think his excellency will soon be well again?

Minister TUNG. How can one know? I think, however, that four or five days will suffice to put him straight again.

M. BISMARCK. If the illness was to be prolonged there would be nothing for the foreign ministers to do but to ask to see the prince, since the decision on the important matter in question could not be suspended on account of the illness of one of the ministers of the Tsung-li-Yamên when the duration of the illness is uncertain.

Minister TUNG. We will inform Prince Kung to-morrow morning of what you have said to us, and we will at the same time let you know the state of health of Minister Wên. I am sure he will be well in a few days.

Minister CHÊNG. It is the weight of business which is the cause of the illness. His Excellency Pao is also very unwell, but he does not dare to ask for leave at present.

M. BISMARCK. I wish to repeat that it is desirable that the matter in hand should be settled without too much delay, as the accession of His Majesty had always been pointed out by the Tsung-li-Yamên as the proper time to settle the audience question.

Minister CHÊNG. Certainly it ought to be settled, and it shall be settled. Remember how we announced without delay the accession of the Emperor. What remains to be done shall be done.

M. BISMARCK. You will best prove your good will by informing His Majesty as quickly as possible of the desire of the foreign ministers. The illness of Minister Wên is not a sufficient reason to stop such a step being taken.

Minister TUNG. The Minister Wên is absolutely necessary to us in these negotiations. If it was I who was ill it would be a different matter.

Minister CHÊNG. As for me, I was ill for a whole year, and the business of the Tsung-li-Yamên went on very well without me; I am not an important person.

M. BISMARCK. But there is the prince.

The ministers rise and request me to be seated at the table where refreshments have been served; they endeavor by every means to get me off my subject by talking of the difference between European and Chinese food, &c., &c.

After a little while I asked, in order to return to the question, if the transaction of business was not easier since the accession of His Majesty.

Minister TUNG. Reports are now made direct to His Majesty; before they were addressed to the two empresses who were hidden by a curtain. This system had great advantages; whereas, now the Emperor has to be spoken to direct, which makes the duty of reporting very unpleasant. The feeling of responsibility in the presence of His Majesty is so great that while doing one's best to be correct in every detail one is in danger of overlooking important affairs.

Minister CHÊNG. To be questioned by His Majesty in person produces a singular sensation. The most simple questions, to which one would usually reply without hesitation, become actual problems when asked by His Majesty. (The minister cites instances in which he himself had not been able to answer promptly questions put to him concerning his name and his age.)

M. BISMARCK. That may be, but if you have important business to communicate to His Majesty, and you fear you might make mistakes in an oral report, you have the good alternative of presenting a written report to the Throne, in which you can treat the subject at length and with precision, after mature reflection beforehand.

Minister CHÊNG. But if afterward His Majesty wishes to have a verbal commentary on the report, we find ourselves in the same difficulty; we are weighted with a sense of enormous responsibility.

M. BISMARCK. The step now taken by the foreign representatives ought not, however,

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to cause such great difficulty, for you have had so many years to prepare the solution; and, besides, what responsibility can fall upon you, seeing that it is the foreign ministers who have taken the step, or rather governments, which ask for the reception of their envoys, not only as an act of propriety and politeness in use throughout the civilized world, but also as a necessity required by the dignity of these governments. Were not the Chinese envoys received at foreign courts?

Minister TUNG. Certainly, but in that our envoys accommodated themselves to the usages of your countries, whereas in China such a matter requires before all minute consideration as to the best way in which to bring it forward. For my part, I should certainly prefer to be named envoy in a distant country and to conform to the foreign manners to supporting as a minister of the Tsung-li-Yamên the demands of the foreign representatives.

(The Minister Chêng agrees.)

M. BISMARCK. What steps have you taken concerning the collective note of the ministers of the 24th of February?

Minister TUNG. We shall submit the contents of the note in the form of a report to His Majesty.

M. BISMARCK. Does that mean that as yet such a report has not been made? The foreign ministers supposed that your report had been made to the Throne without the slightest delay.

Minister CHÊNG, (exchanging a smile with his colleague.) What an idea! We cannot surprise His Majesty all of a sudden by a request for the audience while he is still unaware of the grounds on which such a request is put forward. His Majesty is not twenty years of age, and, notwithstanding his eminent position, one cannot expect him to be familiar with all questions that arise. Before inviting the Emperor to give his decision on the question of audience it is, therefore, our duty to determine the manner in which it will be most expedient to prepare His Majesty.

M. BISMARCK. And how long would it take you to arrange this and to ask for the decision of His Majesty?

Minister TUNG. Indeed, I am unable to say.

M. BISMARCK. But that is a question to which you can very well reply without engaging yourself to anything.

Minister TUNG. We dare not give our opinion on it; but be assured that the affair shall not be delayed.

Minister CHÊNG. A conference with the foreign ministers forms a part of the preliminaries.

M. BISMARCK. I do not understand what you should have to communicate to the foreign ministers, unless it is to inform them before anything else that His Majesty has taken cognizance of the collective note of the 24th of February. What other object could a conference have?

Minister CHÊNG. On the day of the interview we shall receive further instructions on this point.

M. BISMARCK. In your letter of yesterday you said that you were on the point of going to the legations; therefore, you knew the object of your negotiation.

Minister CHÊNG. No; up to this moment we are still ignorant of the details; we shall only know them at the last moment, when the prince gives us our instructions.

M. BISMARCK. All that appears to me to point again to useless delays.

Minister CHÊNG. Be re-assured; we are well aware of the impatience with which the foreign ministers regard the solution of this affair.

M. BISMARCK. Not only that, but the envoys are all resolved upon success; in addition, the most complete understanding exists between them on the matter, and the Chinese government, although it has to deal with five representatives, has nevertheless to deal with only one opinion.

Minister CHÊNG. It is a very good system to hang closely together; we do it also when we have difficult and important business to settle.

M. BISMARCK. Well, what answer am I to take to the envoys regarding this proposed conference?

Minister TUNG. We have already said to you that at a very early hour to-morrow we will inform the prince, and we will find out at the same time about the health of his excellency Wên.

M. BISMARCK. Then we may expect to hear from you, say, the day after to-morrow?

The two MINISTERS, (after consulting together in a low tone.) We promise this.

M. BISMARCK. Above all, I will beg of you not to forget the importance and urgency of the matter, and that, were the ministers not to receive in a short time a satisfactory answer, nothing would be left for them to do but to ask for an audience of the prince.

The ministers repeated their assurances, and I took my leave. The interview had lasted one hour and a half.

C. BISMARCK.

PEKING, *March* 4, 1873.

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[Inclosure 3.—Translation.]

Foreign ministers to Prince Kung.

PEKING, *March* 5, 1873.

SIR: The undersigned, ministers for Russia, Germany, the United States, Great Britain, and France, have the honor to refer to their collective note of the 24th February, in which they expressed their desire to have an audience of His Majesty the Emperor of China for the purpose of presenting their congratulations to His Majesty, and requested his imperial highness to move His Majesty to issue orders for their reception.

It has been intimated to the undersigned, by the ministers of the yamên of foreign affairs, that their excellencies had had it in contemplation to call at their respective legations for the purpose of having some conversation upon the subject of the collective note, but that the indisposition of the grand secretary, Wên Hsiang, had induced them to postpone their visit.

The undersigned regret extremely the continued illness of the grand secretary. The matter of their note of the 24th February, as attested by the fact that the n ote was collective, is, however, of the highest importance, and the undersigned, in order to the satisfaction of its object at an early date, feel it their duty to address a second note to his highness for the purpose of requesting an interview with him at such time and in such place as may suit his imperial highness to name.

[Inclosure 4.]

Ministers of the foreign office to Mr. Low.

PEKING, *March* 7, 1873.

SIR: On the 24th February we received from their excellencies the foreign ministers a collective note, and on the 4th March we sent messengers to the residence of M. Bismarck, the German interpreter, with directions to request their excellencies to name a place for an interview, in order that we might fix upon a time for a general discussion.

Upon the 5th instant we again received a dispatch requesting us to name time and place for an interview.

We therefore propose, in the first instance, to meet their excellencies at the Russian legation, on the 11th instant, at 1 p. m., to discuss this matter, and we trust their excellencies will be able to meet at the time stated.

We herewith send notes to each of the other foreign ministers, as also to your excellency, with our compliments, &c.

[Cards of the ministers.]

[Inclosure 5.]

Prince Kung to the foreign ministers.

PEKING, *March* 10, 1873.

Prince Kung, chief secretary of state for foreign affairs, herewith makes a commu nication in reply.

Upon the 24th February I had the honor to receive the collective note of your excellencies, stating that, having received the announcement that His Majesty the Emperor of China had attained his majority, and on the 23d February had, in person, assumed control of the government of the empire, you would be failing in the duties of your position did you not, at an early day, present the congratulations of your respective governments to His Majesty. You therefore requested me to lay this expression of your desire before the throne, and receive His Majesty's orders as to an audience.

Upon the 5th instant I again received a collective note from your excellencies, requesting me to appoint an interview.

As the interests involved in this matter are of the utmost consequence, I have in the first instance directed his excellency Wên Hsiang and the other members of the foreign office to meet your excellencies at the Russian legation, on Tuesday, 11th March, at 1 p. m., for a general consultation. I trust your excellencies will all be able to meet at th e time and place named.

A note to the effect stated above has already been dispatched by the yamên to each of you, and in addition thereto I beg to make this reply.

To their Excellencies VLANGALY, DE REHFUES, LOW, WADE, DE GEOFROY.

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[Inclosure 6.]

Memorandum of an interview between the foreign ministers and four ministers of the Tsung-li-Yamên at the Russian legation, March 11, 1873.

In response to a request made by Prince Kung, the ministers of Russia, Germany, the United States, England, and France, met the grand secretary, Wên Hsiang, and the ministers Mao, Shên, and Chung-how, at 1 o'clock, p. m., for the purpose of discussing the subject-matter of the joint notes addressed to the prince on the 24th February and 5th March.

After the usual compliments, the Russian minister (the doyen of the diplomatic body in Peking) announced that we were prepared to listen to what the Chinese ministers had to say with reference to the request embodied in the joint notes referred to.

Wên Hsiang then proceeded to say that the question of admitting foreign ministers to the personal audience of the Emperor was a very serious and somewhat difficult one to manage. The question of audience, he said, is, in itself, not difficult, as that could be easily arranged, provided the forms and ceremonies customary among the Chinese were observed by the foreign ministers. But as it was understood that these forms would not be acceptable, the prince had instructed him and his colleagues present to come and have a personal consultation, with a view of agreeing, if possible, upon a code of etiquette which would be mutually satisfactory. He also intimated that our demand had taken them somewhat by surprise, and that it was necessary to carefully consider all the points before presenting a memorial to the throne.

In reply we said that the question of audience could not be considered a new one, for it had been brought to the attention of the members of the yamên on many occasions during the last twelve years; nor could the government reasonably expect that there would be any delay in asking for it after the Emperor assumed personal control of the government.

We further said that the request contained in our note of 24th February was so reasonable, and our duty in the premises so clear, that it was not easy to perceive what preliminary discussion was necessary. But as it had been intimated that the ministers desired an interview, we had with pleasure assembled to hear and respectfully consider any propositions they might have to make.

Wên Hsiang, in response, said that it was the custom with their own officials to prostrate themselves when they appeared in the presence of the Emperor; and desired to know whether we would agree to kneel. If we would accept that as a compromise, the main difficulty would be removed, he thought.

We replied that such a proposition was quite inadmissible, that it was useless to discuss the reasons, as they had been so often repeated within the last ten years, that none of the high officials could be ignorant of them.

We were then asked whether we could not suggest some plan which might be considered a compromise.

To this we responded, that in western countries it was usual for the sovereign to stand when a foreign minister was presented, but that we should not insist upon that rule being observed in the present instance, and if it suited His Majesty better to be seated when we were presented, we should offer no objection. (It was plain that this suggestion did not seem to the Chinese ministers a concession.)

In support of our view of the case we cited the history of the Burlingame mission. We said that the Chinese embassadors were received by the heads of all the governments they visited; that when the audiences were granted, the embassadors were given to understand that when the Emperor of China assumed control reciprocal courtesies would be expected from him, and in some instances, particularly in the United States and in France, this was clearly stated in the written response to the request of the Chinese ministers for audiences.

This argument was met by the announcement that their embassadors, in making request for audience abroad, exceeded their instructions. To this we replied that we could not pretend to say what were their instructions. It was, however, reasonably certain that the imperial government was made aware of the details of the proceedings of its embassadors, and if, as was alleged, their ministers exceeded their instructions on so important a matter, the government should have promptly made known its disapproval.

Neither of the governments represented by the ministers present having up to this moment received any intimation that the course of the Chinese embassadors was disapproved, the imperial government was practically bound by the acts of its agents.

Wên Hsiang then said, "How can we justify ourselves to recommend the Emperor to receive you in the manner you desire, when the prince (the uncle of the Emperor) will, when introducing you, be obliged to kneel?" To this we responded by saying that, according to their theory, the government of China is paternal; the whole people are one family, of which the Emperor is the paternal head; that the princes and high ministers are a part of the family, while the foreign ministers occupy the relation of

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guests. If, however, this view should not appear reasonable, the prince might be relieved from the necessity of kneeling when presenting the foreign ministers. This proposition elicited no discussion or even response.

The grand secretary remarked, after a somewhat lengthy pause, "We are anxious to arrange this matter satisfactorily, and the prince hoped we would be able to agree upon some compromise as to the etiquette which would facilitate a settlement. As yet, we seem to have made little or no progress. Will you please take our proposition into careful consideration, and we will meet you again in a few days for further discussion."

To this we responded that the five ministers present were in entire accord upon three points, which it was useless to discuss, namely—

1st. The propriety and necessity for asking personal audience of the Emperor.

2d. That it should be granted without unnecessary delay.

3d. That it could not be accepted upon condition of our kneeling or performing any other ceremony which would be derogatory to our own personal dignity or that of the governments we represent. We further said that when the government is prepared to assent to these primary conditions, we will then be prepared to discuss, in an amicable and conciliatory spirit, all minor points of etiquette which may be brought forward.

Some further discussion ensued without reaching any result, and the conference adjourned to meet again on the 14th instant, at the German legation.

The session continued about four hours.

No. 62.

Mr. Fish to Mr. Low.

No. 126.] DEPARTMENT OF STATE,
Washington, March 15, 1873.

SIR: On the 13th instant the minister of France in this country called upon me and showed me a note (of which a copy* is inclosed) addressed to him by M. de Rémusat, the minister of foreign affairs of France, inclosing a copy of an instruction from Lord Granville to the British embassador at Paris, relative to the audience question. In this note the French government declares itself in favor of pressing the question of granting audience to representatives of foreign powers on the occasion of the young Emperor's attaining his majority, believing that neglect to do so at that time will be argued against the right of audience in the future. The government of Great Britain, however, thinks it more advisable not to press the matter at present, and that foreign ministers in China, on the Emperor's attaining his majority, in order not to embarrass his action at a critical time, should confine action to the extension to him of their felicitations and the expression of hope that he may see fit to grant the audience.

I stated to the Marquis de Noailles that we have not received a copy of the British paper as yet, although it is stated on its face that it is to be sent to the other powers, and, therefore, I preferred not to enter with him into a formal presentation of views; that I had been of opinion that the occasion of the Emperor's accession would be a suitable time for the solution of the question, but that I would hold my opinion open as to the course to be pursued for the consideration of the views of the British ministry; at the same time telling him that the views of this Government seem to be much more in harmony with those of France than those expressed by Great Britain. I informed him of the general nature of my instruction to you, (No. 115, of 21st of December last,) which was dependent on the concurrent action of the representatives of all the treaty-powers. That I was clearly of opinion that without

* For enclosure see correspondence "France."

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the assent of all, none of the foreign representatives at Peking should take any advanced step in insisting upon the audience. In this the marquis professed to concur. I saw the British minister shortly after my interview with the marquis, and he disclaimed any knowledge of the letter addressed to the British embassador in Paris.

There can, however, be no question of its authenticity; and in view, therefore, of the attitude which the British government assumes, you will be careful not to adopt any line of action with reference to the audience question without further instructions, unless all the representatives of all the treaty-powers unite in the course contemplated in your dispatch, No. 142, 25th March, and in my instruction, No. 115, of 21st December last.

I am, &c.,

HAMILTON FISH.

No. 63.

Mr. Low to Mr. Fish.

No. 238.] LEGATION OF THE UNITED STATES,
Peking, March 15, 1873. (Received May 23.)

SIR: In continuing the narrative of proceedings concerning the request for personal audience of the Emperor, I have now to inform you that a second conference was held yesterday at the German legation.

A summary of what was said at that interview is contained in a memorandum herewith. (Inclosure No. 1.)

To avoid misconception it was deemed advisable to submit written memorandums, in which were embodied the substance of the arguments advanced by us in support of our claim, copies of which are transmitted herewith. (Inclosures 2 and 3.) Chinese versions of these memorandums were prepared by Mr. Wade, the British minister, and handed to the Chinese ministers at the close of the conferences, in order that they might be able to present the case fairly to their associates.

The second conference was much less satisfactory than the first. At our first meeting the Chinese ministers were evidently troubled, and seemed anxious to find some means by which the matter could be arranged satisfactorily; at the second their composure and apparent indifference indicated that their fears of untoward results in case of refusal to comply with our request had been in some way dispelled. The final reply of the grand secretary to us was that they had no further propositions to make, and intimated that audience would not be granted except upon the condition that the foreign ministers would kneel.

Under these circumstances further discussion with them seemed useless, and the interview was brought to a close in the manner stated in inclosure No. 1.

The change in the attitude of the yamên between the 11th and 14th instant was clearly perceptible to all. Whether this change is due entirely to the departure of the Russian minister from Peking may be doubted, although his absence at this particular time unquestionably weakens the force of our demand in the minds of the Chinese not a little.

I am of the opinion that the government will not care to incur the risk of sending us a positive refusal to our demand; nor is it probable

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that it is prepared to yield gracefully. Delay is the favorite weapon of defense with Chinese officials when troublesome questions are forced upon them; and I shall be much surprised if the prince does not ask for a further discussion of the question before an answer of any sort is returned to our note.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Memorandum of a conference at the German legation March 14th, 1873, at which four members of the yamên, and the ministers of Germany, the United States, England, and France, were present.

Pursuant to an appointment made at the interview on the 11th instant, the ministers above named met to discuss the subject-matter of the collective note of the 24th of February.

The Chinese ministers were the same as on the 11th, with the exception of Shên, whose place was filled by Pao.

On our side the Russian minister was absent, he having started for Shanghai on the 13th, for the purpose of meeting the Grand Duke Alexis.

The discussion commenced by Baron de Rehfues remarking that we had assembled to hear what further observations the Chinese ministers had to make in regard to the request contained in our collective note. The grand secretary replied saying, that they had no additional propositions to make; he hoped, however, that we were ready to suggest some compromise by which the whole question could be amicably arranged.

We then asked him if they still insisted that the foreign representatives should kneel in the presence of the Emperor, as a condition of admitting them to an audience, to which he replied in the affirmative. He then went on to argue that none but equals of the Emperor could be allowed to stand in his presence, and that he had no equals except the actual heads of foreign governments; that while the diplomatic representatives of those governments represented their sovereigns, they were not possessed of the same power, and therefore could not be considered equal in rank; the proposition submitted to us on the 11th placed us on a par with princes of the blood, in point of rank and dignity, which was as far as they could go, and which they thought we ought to be satisfied with.

In response we said that at our last meeting they were distinctly informed that their proposition could not be entertained; and we now desired to say, in the most unequivocal and emphatic manner, that such a thing was quite impossible; that to accept audience upon those terms would be considered by our governments an admission of their inferiority, and therefore unacceptable; and that, unless the Emperor is inclined to yield this point, further discussion of the question would be entirely useless. We further remarked, that if this difficulty could be got out of the way, we were willing to discuss all minor points of etiquette, and that they would find a willingness on our part to make any concession which would not positively derogate from our position as the representatives of equal nations.

In response the grand secretary said, that the fact of our kneeling would not, according to their views, imply that our countries were inferior to China, and cited as an argument in support of his position the fact that Russian embassadors had on many occasions conformed to Chinese etiquette when presented to the Emperor, while Russia was at the same time acknowledged as an equal state. He then went on to argue that if the ceremony be now changed, and the Russian embassador is admitted to an audience according to the custom of western nations, it would be a virtual admission that Russia is a superior power.

This argument being so absurd, we could not do more than express our surprise that a person so intelligent as the minister Wên Hsiang should make such a statement; nor did it seem possible that such arguments were brought forward with any expectation that they would be seriously considered.

Further discussion followed, but no new propositions were made on either side. The Chinese ministers intimated that to kneel in the presence of the Emperor was a *sine qua non* to audience, and as this was impossible, it was not deemed advisable on our part to make any suggestions with reference to minor points of etiquette, on which we were prepared to make some concessions.

We finally closed the conference by saying that it seemed a waste of time to discuss the question further, as there seemed to be no possibility of our assenting to the demand they made; that if they had no additional propositions to make we begged them to re-

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port the substance of our two conferences to the prince, and say that we would feel obliged if he would lay our note before the Emperor and return us an answer at his earliest convenience.

They were also authorized to inform the prince that if, prior to laying our note before His Majesty, he thought further discussion would serve any useful purpose, we were willing to meet him at any time he might name, either at the foreign office, or at one of the legations.

At this interview the Chinese ministers seemed to be much more at their ease than on the 11th; they evidently endeavored to impress us by their bearing, as well as what they said, with the fact that it was useless to expect that they would yield further to our demands.

The interview lasted about two hours.

[Inclosure 2.]

Memorandum on the audience question, presented by Mr. Wade, the British minister, at the conference on the 11th March.

The question of the audience, in reality, lies above all treaties.

The reception of foreign ministers of a certain rank, when armed with letters of credence, is an evidence of friendly relations between the states concerned. The refusal to receive them is an evidence of the incompleteness of relations.

But, were the question to be argued with reference to treaty stipulations, the right of the British minister to claim audience is established by Article IV of the treaty of Tein-tsin, in which it is laid down that "generally he shall enjoy the same privileges as are accorded to officers of the same rank by the usage and consent of western nations."

The audience is the chief of these privileges, and the conditions under which it is accorded are more or less known to the Chinese government from the translation of the "Laws of Nations."

When foreign legations were established in Peking, His Majesty, the late Emperor, was absent at Jehol, and he remained there until his death. Sir F. Bruce, therefore, although in his reply of the 10th of December, 1860, to a dispatch from Prince Kung, under date of the 26th November, had fully explained the nature of the privilege, had no opportunity of claiming its exercise, nor, although frequently alluded to in discussion, has this since been formally claimed. By common consent it has been agreed that, during the minority of the reigning sovereign, the government of China should not be pressed upon the subject; that, whenever the minority terminated the right waived would be asserted must have been apparent to the ministers of the yamên of foreign affairs from the conversations held with various ministers on different occasions any time during the last twelve years.

The letters addressed to Mr. Burlingame by Mr. Seward and the Marquis de Lavalette upon the subject, distinctly record the intention of the United States and France to claim it whenever the regency should end; and so lately as the 18th of February the yamên proposed to send a reply, prepared in accordance with an imperial decree, to the letter of credence not yet delivered by M. de Rehfues, the minister of Germany. It was explained by M. de Rehfues to the ministers of the yamên, who called upon him, that the reception of foreign ministers was a question that must immediately present itself.

It cannot be doubted that, as the letter prepared by order of His Majesty was not delivered to the minister of Germany, some explanation of its non-delivery has been tendered to the throne; and it would be desirable to learn, if the ministers of the yamên feel at liberty to state it, what observations in reply His Majesty was pleased to make.

If, as foreigners are given to understand, the great difficulty surrounding the question of audience, from a Chinese point of view, be the ceremonial, it will be well to say a few words that will dissipate erroneous beliefs.

One of these is that, because a foreign minister represents his own sovereign, he claims, in every sense, equality with the sovereign to whom he is sent. As the representative of his own, his person can no more be touched than that of his sovereign were he present in person; but the foreign minister does not claim to be the equal of the sovereign to whom he is accredited. As to forms, such a sovereign may receive him seated or standing; and if he ask the minister to be seated, to drink tea or wine, or otherwise show him civility as his host, such acts are but acts of graciousness on the part of the sovereign. The foreign minister, when presented, will commonly address the sovereign certain words of compliment or congratulation, but he will not initiate a conversation on business. The sovereign visited can, if he pleases, discuss affairs with a foreign minister, but he is perfectly free to decline any such discussion should

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the minister commence or desire to continue it. In the present case, when the Emperor of China receives the ministers, it is most likely that the doyen alone will speak on behalf of his colleagues, and, this ended, it will rest with His Majesty whether anything more is said.

The essential is the improvement of relations. Foreign governments are dissatisfied not only because many of the provisions of the treaties do not work satisfactorily, but because there is a belief that China wishes still to keep foreign nations at arms' length. The reception of ministers will dispell this belief, because it will prove that China fairly distinguishes between friendly powers and outer barbarians or dependent states, and the change in their sentiment towards China, which will be the natural consequence of such a change of belief, will be of value to China in more ways than one. It is not only with foreign states that she has difficulties. Her internal condition, though gradually improving, demands that she should not be embarrassed by misunderstandings abroad.

Once for all, the concession should be made promptly and without an attempt to annex to it conditions which would affront the dignity of the foreign nations represented.

Once assured that there was no intention to put upon them such an affront, foreign ministers would without doubt do all that in them lay to make the necessary departure from Chinese etiquette as little offensive as possible to the prejudices of the Chinese.

[Inclosure 3.]

MEMORANDUM.

It is urged that if foreign ministers remain standing while the princes of the blood kneel, the latter are made to appear the inferiors of the foreign ministers.

The princes of the blood in the presence of the Emperor of China are but His Majesty's ministers and subjects.

Foreign ministers sent to China are the representatives of their own sovereigns. They come before the Emperor in the place of their own sovereigns, and not as ministers or subjects of His Majesty. It is for this reason that they claim to be received by His Majesty under other conditions than His Majesty's ministers or subjects.

It is then urged that these are relations in vogue among foreign nations, but contrary to the traditions of China. The traditions of China, it is not intended to state it offensively, ignore the equality of independent governments; but the tradition was departed from the moment that China signed a treaty with a foreign state. From that moment she admitted the equality with herself of foreign powers, and she made it impossible for her to refuse to maintain intercourse with foreign powers, under the conditions accepted by foreign powers, without affronting the powers with which she might refuse to entertain intercourse under these conditions. The whole question resolves itself into this: The admittance into the presence of the Emperor of a foreign minister bearing a letter of credence from his sovereign implies that the friendliness of relations between his sovereign and the Emperor of China is complete. The refusal to admit him implies that it is incomplete.

It need scarcely be added that to promise him admittance under conditions which would be derogatory to the dignity of his sovereign is virtually to refuse to admit him at all.

No. 64.

Mr. Low to Mr. Fish.

No. 240.] LEGATION OF THE UNITED STATES,
Peking, March 20, 1873. (Received May 23.)

SIR: As the Chinese ministers appear to think that the ceremonies observed by the Russian embassadors in former times when allowed an audience by the Emperor were entirely proper, and that were foreign ministers now to observe the same, there would be nothing inconsistent in them with their own personal dignity or that of the governments they

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represent, it may interest you to read an account of the reception of Count Ismailof, the embassador of Peter the Great to the court of Peking, (inclosure No. 1.) This is the best description of the ceremonies of the Chinese court on such occasions that I have seen; and, as the narrator was one of the interpreters on the occasion, there is no reason to doubt its accuracy, or to suppose the writer was guilty of exaggeration.

It would not, I think, be an inaccurate statement to say that the disposition of the Chinese government is the same to-day in regard to such things as it was in 1720; and if the ceremonial to be observed when the Emperor grants personal audience to foreign ministers be now modified so that it will substantially correspond to that of western nations, the change will be brought about more by a fear of the ultimate consequences of refusal than from a spontaneous desire to conform to international custom.

I have, &c.,

FREDERICK F. LOW.

[Inclosure.—Extract.]

"FATHER RIPA'S RESIDENCE AT THE COURT OF PEKING."

* * * On the 29th of November, 1720, Count Ismailof, who was sent on an embassy to His Celestial Majesty by the Czar, Peter the Great, made his public entry into Peking, with a retinue of ninety persons, and the sound of trumpets, drums, and other military instruments. He was on horseback, and had a man of gigantic height on one side of him and a dwarf on the other, both on foot. His retinue partly preceded and partly followed him, some on horseback, and others on foot; all with drawn swords and in splendid array.

Count Ismailof had a fine person and a noble expression of countenance; he spoke German, French, and Italian, and had some slight knowledge of Latin.

To conduct these negotiations with the embassador, the Emperor appointed a commission, consisting of a mandarin and two courtiers, all personages of great authority, and deputed five Europeans and a Chinese to serve as interpreters. Being one of the number, I had the honor of waiting on Count Ismailof together with the others. After an exchange of compliments, the embassador said he had a letter from the Czar, which he was instructed to deliver into His Celestial Majesty's own hands; and, on being questioned as to its contents, he produced a copy and gave it to the commissioners. Louis Fan, the Chinese interpreter, was desired to read it; but the letter was written in Latin, and the poor man knew so little of this language that he had been obliged to petition the Pope for a dispensation from reading mass every day. He muttered and mumbled till he wore out the patience of the bystanders; and, when at length he was pressed to tell the meaning, he was obliged to confess that he could not make it out. The letter was then handed to us, and we immediately read the contents. It imported that the Czar, being desirous to strengthen the good understanding in which he had hitherto lived with the Emperor, had sent Count Ismailof as his embassador, requesting His Majesty to listen to all the details that he would have to submit to him, and not send him back to Moscow before the business on which he had been dispatched was completely arranged.

The commissioners were incessant in their inquiries respecting the business alluded to in the letter; but the wary Ismailof constantly replied that he was forbidden to speak on the subject until the letter had been received by the Emperor, and his diplomatic capacity acknowledged. As, however, the commissioners insisted upon having the first information, the embassador, being at length overcome by their troublesome importunity, stated that the whole business consisted in the establishment of a treaty between the Russians and the Chinese, in order to avert any future misunderstanding.

Whilst we were engaged in conversation with the embassador, the dinner sent him by His Majesty arrived and, when he was requested to return thanks, by making the accustomed prostrations, he refused, alleging that he represented his sovereign, who was on equal terms with the Emperor; but that he would make an obeisance according to the custom of his country. The commissioners, who could not obtain any further concessions, were obliged to be satisfied.

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The Emperor, having been immediately informed of this, was as much satisfied with the contents of the letter and the business on which the embassador had been sent, as he was displeased to hear of the reluctance which he had shown to perform the indispensable prostrations. But he dissembled; and, in order to obtain his object without coming to a rupture, he resorted to the stratagem of inviting Count Ismailof to a private audience, saying that he would receive the Czar's letter upon a subsequent occasion.

The embassador immediately perceived the snare, and returned thanks to His Majesty for the honor he was willing to grant him as a private individual; but he added that, as he was in the service of his sovereign, he must first beg to present his letter.

The Emperor then ordered us to inform the embassador that, as he declined being presented to him before delivering the Czar's letter, His Majesty would neither receive the letter, nor the gifts sent by the Czar; and that he might therefore return to Russia. To this Ismailof replied that before executing the commission he had received from his sovereign he could not receive any personal distinction; and when he was asked whether in presenting the letter he would perform the prostrations, he answered that he would not, but that he would make the obeisance which European embassadors made before the princes to whom they were sent.

Upon this the Emperor commanded one of his principal eunuchs, a page, the master of ceremonies, and the five European interpreters, to inform the embassador that, out of regard to the Czar, he had been induced to do him the honor which he had refused; that, according to the immutable ceremonial of China, it was incumbent upon embassadors to make the prostrations, and to place the letter upon a table, whence it was taken by a great officer of state and presented to His Majesty; that although such was the custom, he would waive it on that particular occasion, and receive him in the great hall; that besides this manner of presenting anything written to His Majesty, there was also the official channel of his government, and that he could choose which of the two ways suited best. To the suggestion of the official channel, the embassador replied with a smile; and with respect to the other, he answered that he was commanded by his master to deliver the letter into His Majesty's own hands, and that he could not take it upon himself to depart from his instructions.

The eunuch then told him that if neither of these ways satisfied him, he might endeavor to meet the Emperor, as he was coming to Peking, and kneeling down before His Majesty, present him the letter on the public road. Count Ismailof also rejected this advice as indecorous toward his own sovereign, and persisted in saying that he would deliver the letter into the Emperor's own hands, in the place where he was accustomed to receive the embassadors of other powers. At this presumption, highly offensive to Chinese pride, the eunuch smiled, and the page said the embassador must be mad; whereupon, without saying one word more, we all rose and broke up the conference.

The interpreters were again summoned to the palace, and a decree, written by the Emperor himself, was given to them for translation, with the injunction that they should represent it as the work of His Majesty's ministers, and should request the embassador to reply, categorically, to every particular. * * * * * *

The subject of this imperial edict, which was supposed to be addressed by the foreign office to the embassador, was as follows:

"The Emperor had hitherto received and treated with great honor all envoys of foreign powers; and as during many years he had been on a good understanding with the Czar, as soon as he was informed of the approach of his embassador to Peking, he had sent some mandarins to meet him, furnishing him with horses, and whatever else was necessary in the journey. On the embassador's arrival in Peking, one of His Majesty's eunuchs was sent to him with dishes from the imperial table and a message that after a few days he would be received at court. His Majesty thought that all these favors might have induced him to give up his unreasonable pretensions of delivering the letter with his own hands, as he was no more than a representative of his master. This circumstance had awakened much suspicion upon his conduct. If he expected to receive the same honors as those that would be paid to the Czar, if personally present in Peking, the marks of respect hitherto shown him were certainly insufficient, and other forms and ceremonies must be put in practice. He was not, however, the Czar, but merely his envoy, and even for that His Majesty did not consider his credentials as entirely satisfactory. Although he had boasted of being not only an embassador, but also a prime minister, he might be a merchant, who, the better to succeed in his traffic, had disguised himself as an embassador. But granting that he had really been dispatched by the Czar, and that he was in fact his embassador, yet he ought not on this account to be so presumptuous, nor insist upon presenting his letter with his own hands, as one familiar friend would to another, without observing any of those ceremonies which in China are indispensable, as must have been known, not only to him, but to the Czar also. In this manner, it was impossible that he should ever attain the object of his embassy."

Such was the purport of this imperial manifesto, which concluded by directing that,

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as the conduct of the embassador was so suspicious, the foreign office should make strict inquiries into the matter, and exact from him detailed explanations on every point.

When the translation was completed, the eunuch asked us whether the embassador and the gentlemen of his suite understood the Latin language, and as we replied that they did but very little, he then desired me to make it in Italian. Fearing that Count Ismailof might suspect that I had some share in the invectives contained in the decree, and excite the Czar's hatred against the Propaganda, in whose service I was, I replied that the embassador was better acquainted with the French than with the Italian. Upon this the eunuch immediately ordered that the translation should be executed in the French language, and the task was accordingly confided to Father Parrenin. It was fortunate for me that he relieved me from this duty, as Count Ismailof actually conceived suspicions of the other interpreters, but never of myself. Had this been otherwise it would have grieved me much, for afterward he was recommended to me by the bishop of Peking, in the name of the Propaganda.

The French translation of the imperial decree, together with the original copy in Tartar characters, was conveyed by the mandarins to the embassador, without the aid of the interpreter. I was, however, informed that he did not appear in the least surprised at the blame thus bestowed on him, and that he again expressed his determination not to make the required prostrations, and to present the letter with his own hands.

The mandarins returned to the embassador with an answer also written by the Emperor himself, but with more condescension, in the name of the government. Count Ismailof again declared in the same manner that he would not make the prostrations, and demanded permission to place the Czar's letter himself in the hands of the Emperor.

His Majesty, perceiving that the embassador firmly persisted in his resolution, no longer corresponded with him in the name of the government, but sent several mandarins, accompanied by interpreters, of whom I was one, immediately from himself. We stated that the Emperor considered the family of the Czar as his own, and that the Czar's honor was equally dear to His Majesty, with many other similar expressions, which were made to bear upon the pending question. We added that whenever he should send an embassador to the Czar he promised that his representative should stand uncovered before him, although in China none but condemned criminals exposed their heads bare, and should perform all the other ceremonies customary at Moscow. No sooner had we arrived at these words than the chief mandarin instantly took off his cap before the embassador, and the latter, being thus satisfied, promised to perform the prostrations according to Chinese custom, and also to place the letter upon the table in sight of the Emperor sitting on his throne, so that one of the courtiers might afterward convey it to His Majesty. The mandarin further stated that the embassador had the imperial permission to repair to the gate of the palace in the same state as he had entered Peking, namely, with drawn swords, music, and other distinctions. After this Count Ismailof endeavored to justify his conduct, and produced the original instructions confided to him by the Czar, in which, among other things, he was commanded not to perform the prostrations, and to insist on delivering the letter himself into the hands of the Emperor.

It was finally arranged that the ceremony should take place on the 9th of the same month.

On the appointed day, Count Ismailof went to the palace to present the letter to the Emperor, with the usual ceremonies and prostrations, as had been agreed; and the presentation took place in the manner which I am about to describe.

After the embassador and the ninety men of his suite had been kept waiting a good while in the open vestibule of the great audience-hall, the Emperor entered it, followed by the principal officers of state, and mounted his magnificent throne by some steps on the left, whilst every one else ascended on the right. His Majesty took his place in a chair gorgeously decorated, having on his right three of his sons seated upon cushions, and, a little further off, the halberdiers, pages, eunuchs, chief courtiers, and ourselves, all standing; we interpreters wearing the dress and insignia of great mandarins. At the foot of the throne, on the floor of the great hall, sat, upon cushions, in distinct rows, the first mandarins of the empire, the koong yeh, or lords of the imperial family, and many other mandarins of inferior rank. Before the throne, near the entrance of the great hall, stood a table prepared with sweetmeats for His Majesty. In the open vestibule, which was a few steps lower than the great hall, there was another table, beyond which Count Ismailof was standing. According to Chinese etiquette, the embassador should have placed the letter upon this table, kneeling down in the vestibule, but the Emperor ordered that the table should be brought into the audience-hall, and that the embassador should also advance, which was a mark of honor.

Count Ismailof then entered, and immediately prostrated himself before the table, holding up the Czar's letter with both hands. The Emperor, who had at first behaved graciously to Ismailof, now thought proper to mortify him by making him remain

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some time in this particular posture. The proud Russian was indignant at this treatment, and gave unequivocal signs of resentment by certain motions of his mouth and by turning his head aside, which, under such circumstances, was very unseemly. Hereupon, His Majesty prudently requested that the embassador himself should take the letter up to him, and, when Count Ismailof did so, kneeling at his feet, he received it at his own hands, thus giving him another mark of regard, and granting what he had previously refused.

After the presentation of the letter the embassador, attended by the master of the ceremonies, returned to his former place in the open vestibule. Shortly after he moved to the center opposite the chair in which the Emperor was; behind him stood his principal attendants, and further back a number of soldiers and servants.

When all present were thus marshalled in due order, at particular signals given by the master-in chief of the ceremonies, they all went down on their knees, and, after the lapse of a few minutes bent their heads thrice to the ground. After this, all arose upon their feet, then again kneeled down and prostrated themselves three times. In this manner they kneeled thrice, and performed nine prostrations.

The embassador was then conducted again to the Emperor's feet, and was asked by His Majesty, through us, the interpreters, who were standing, what request he had to make. Count Ismailof answered in the French language, that the Czar had sent him to inquire after the health of His Majesty, and to confirm the friendly relations that existed between them; and that he himself also took the liberty of inquiring after the state of His Majesty's health. To these inquiries the Emperor replied in a very courteous manner; and then added that it being feast day, it would not be proper to discuss business, for which an audience would be granted at another opportunity. He then commanded Count Ismailof and his attendants to be seated. The embassador was then permitted to sit down upon a low cushion at the end of the row in which were the koong yeh, as metioned above, and four of his principal attendants were placed behind him at the extremity of the next row. All his other followers were directed to remain in the vestibule. * * * * * * *

After this he called him to the throne, and with his own hands gave him some wine in a gold cup, an act of condescension which he also bestowed upon his four principal attendants above mentioned. He then commanded his great officers of state to summon the remaining persons composing the embassador's suit to the door of the great hall, in parties of five, and to serve them with drink. In the mean time a table of sweetmeats was conveyed to the embassador, and then another, upon which were dishes from the Emperor's own table. As all the company were seated Tartar-fashion, that is with the legs crossed, and upon very low cushions, the tables were scarcely a foot high. All those who were seated on the floor of the great hall, as well as ourselves, were each furnished with a litle table, and thus we ate and drank, His Majesty continuing on the throne. * * * * On the following morning the Emperor sent a dinner to the embassador and the whole suite. * * *

Upon a certain day, appointed for the purpose, the embassador presented the gifts sent by his sovereign, consisting of two watches, studded with diamonds; a clock in a case of crystal, containing a portrait of the Czar, which was not at all relished by the Chinese, who did not like to see the portrait of the Czar thus publicly exhibited; a beautiful casket, likewise adorned with crystal; eight large mirrors, some cases of mathematical instruments, a large hemisphere, a level, a microscope, some telescopes, a hundred sable-skins, the same number of ermine and of fox, and some articles turned by the Czar himself. His Majesty accepted all these presents, which, as I said elsewhere, was a mark of especial honor, and gave the embassador, and each of his four principal attendants, an enameled snuff-box, made in his imperial manufactory.

When the Emperor had accepted these presents, the embassador and two gentlemen of his suite were again received by His Majesty in his private apartments, where, after performing the usual prostrations, they were again invited to a repast, of which we interpreters were also allowed to partake. Upon this the conversation turned exclusively on the peace which it was expedient to preserve between the two monarchies, during which the Emperor repeatedly commanded the Russians to listen in silence, and to write in their language what he was going to say, so that they might report it to their master. He likewise ordered the Tartars to record it in their language, and us Europeans in ours, and to furnish the embassador with an accurate translation, that he might carry to his sovereign the important piece of advice he wished to send him. His Majesty then began to speak, and, after a bombastic preamble, said that the peace and welfare of the two nations depended upon the Czar's health; and that, having heard how he delighted in marine excursions, he was desirous to warn him against the inconstancy of the sea, lest he should thus expose himself to destruction. At the conclusion of this solemn illustration of the old saying, "*Parturiunt montes, nascetur ridiculus mus,*" Count Ismailof had great difficulty in refraining from laughter, as he afterwards told me.

* * * * * * * *

The day after we returned to the palace with Count Ismailof and his secretary, when

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His Majesty gave each a superb dress of sables, a vase of fine metal, and two glasses of wine.

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On the 13th of March, 1721 Count Ismailof departed with his train from Peking on his way back to Moscow, taking with him many valuable presents sent by the Emperor to the Czar.

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No. 65.

Mr. Low to Mr. Fish.

No. 241.] LEGATION OF THE UNITED STATES,
Peking, March 22, 1873. (Received May 23.)

SIR: Among the many duties devolving upon the Emperor of China after he enters upon the active duties of his high office, a visit to the tombs of his ancestors, to offer sacrifices according to Confucian rites, is not the least important.

It is now announced that the present Emperor will make such a visit early in April, starting on the 1st and returning on the 9th proximo. It is understood that one of the objects of the visit is to select an appropriate location for this sovereign's tomb. He will be accompanied on the journey by the princes and other high officers in the capital and vicinity, and the cortege will be escorted by a large body of troops. The imperial tombs are distant about one hundred miles from Peking.

An imperial decree issued a few days since names a prince, one grand secretary, two presidents of boards, and one high military officer, who will jointly have charge of all governmental affairs during the Emperor's absence. The proposed excursion is, in the estimation of the Chinese, an important event in the history of the young Emperor; it will be the first time His Majesty has ventured outside the walls of Peking since his return here from Jehol in 1862.

I have, &c.,

FREDERICK F. LOW.

No. 66.

Mr. Low to Mr. Fish.

No. 242.] LEGATION OF THE UNITED STATES,
Peking, March 24, 1873. (Received May 23.)

SIR: On the 17th instant the four foreign ministers now here each received a note from Prince Kung, asking them to meet him on the 21st at such place as they might name, for the purpose of discussing the subject-matter of the collective note of 24th February. We replied, saying that we would meet him at the foreign office at the time designated. Besides the prince there were present at this conference all the ministers of the yamên except Wensiang, Pao, and Chunglin. The prince opened the conversation by saying that the ministers who had met us on the 11th and 14th instant had reported to him the substance of what had occurred at those interviews, that he had hoped for a satisfactory settlement of this question, and regretted very much to learn

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that there seems to be such a wide difference of opinion as to what is proper and necessary to be done.

In reply we said that we regretted not less than himself the present unsatisfactory condition of the affair, and were not less solicitous than he for its proper settlement in an amicable and friendly manner. There was, however, an insurmountable obstacle interposed by the ministers of the yamên, and unless it could be removed in some way there seemed to be small prospect of coming to an agreement. We then went on to reiterate substantially what we had said at the previous interviews, and closed by saying that it was quite useless to discuss the propriety of our kneeling when admitted to an audience, as such a request could not be considered, much less complied with.

The rejoinder of the prince was, in substance, a restatement of the arguments brought forward by the ministers on former occasions in support of their position. He appeared to lay great stress on the fact, that as he and the other princes are obliged to kneel in the presence of His Majesty, if foreign ministers were admitted to his presence without performing the same ceremony, it would be a tacit acknowledgment of our superiority over the highest officials of the empire.

As the substance of what we said on this occasion is embodied in the memorandum herewith, (inclosure No. 1,) a Chinese version of which was handed to the prince, it is only necessary to refer you to that document for our reply to the prince's argument.

Further discussion ensued without developing any new feature, and as the prince did not advance any new propositions it did not seem advisable to continue discussing the question without any prospect of getting nearer a conclusion. We therefore remarked, that as there seemed to be small prospect of reaching a satisfactory result by oral discussions, and as our governments might very properly object to further delay, we begged His Highness would give us an answer to our collective note at his earliest convenience. In response to this the prince begged for further time before replying to our note, saying that it was difficult to arrange so important a matter in a few days. He also intimated that there would be a possibility of an unfavorable answer if we insisted on having one immediately, as the forces against granting this request were too strong to be overcome except by skillful management, which would require time. To this suggestion we responded that the question now under discussion had practically been before the government for twelve years; that our definite request in writing had been in his hands nearly a month, and that if the government is not now in a position to say what course it will pursue it did not seem to us that it would be in any better position a few days or a few weeks hence; we therefore felt bound to ask His Highness to lay our request before the throne and get a decision before His Majesty's departure from Peking in April. In reply the prince said he would endeavor to hasten the matter as much as possible, but he could not promise an answer before the 1st April.

At the close of the interview the ministers of the yamên handed us a memorandum in reply to the two furnished them, (see inclosure No. 2,) copies of which were sent as inclosures 2 and 3 in my dispatch No. 238.

The prince's tone and manner throughout was exceedingly polite and conciliatory; he evidently wished to impress us with the fact that he was anxious to arrange the difficulty, and that, if he should be unsuccessful, the failure would be caused by the opposition of others who could not be controlled or conciliated. His pleading for time showed that the government is not prepared to refuse our request. It may be doubted, however, whether the great apparent anxiety for delay is

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prompted by an honest desire to obtain an affirmative answer; he is, I suspect, anxious to gain time, hoping that something may occur which will enable the government to evade the question entirely.

That the demand of foreign ministers for audience of the Emperor, in accordance with the usages of western nations, is repulsive to Chinese notions of propriety I can well understand; nor have I deluded myself with the idea that reason or argument (did it not fear possible results) would ever cause this government to make the radical changes in its forms and ceremonies which are necessary and appropriate. Such a concession would be regarded by all classes as an assault upon their political, moral, and intellectual position, opposed to all the teachings of their histories, classics, and general literature, and contrary to their popular beliefs and prejudices, through all of which the native mind has become thoroughly possessed of the idea that the Emperor is the Son of Heaven, and consequently without an equal on the earth. If I am correct in my estimate of the feelings and prejudices of the Chinese concerning the "infallibility" of their sovereign, it logically follows that all other nations must of necessity be regarded as inferior to their own.

This deep-rooted faith being, as I believe, universal throughout the empire, it is clear that the equality of other nations, which the treaties recognize, is so only in name; therefore relations between China and other nations rest on an insecure foundation.

Until the native mind can be freed from the belief that all "outside states" are inferior, there can be no real relations of peace and amity between China and western nations. Nothing that could be done would have the effect to dispel these erroneous beliefs as some act of the Emperor, which would in itself be a recognition of equality.

It is in this view alone that I attach importance to the proper settlement of the audience question at the earliest time possible. To demand it and urge compliance with the demand is a duty every western nation owes to its own dignity and to the welfare of its citizen subjects residing here; it is also a kindness to this government to try through this means to improve relations, and thus prevent, or at least postpone, what are now likely at any time to occur—hostile collisions, with their dreadful consequences.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Memorandum presented to Prince Kung, at a conference with him and the ministers of the yamén on the 21st of March, 1873.

It will not be necessary to take up time with arguments in favor of conceding the audience as an evidence of friendly relations; as an act of courtesy that all friendly nations claim of one another independently of their treaties, or as a right specifically established by Article III of the British treaty. These considerations have been sufficiently urged in the conferences of the 11th and 14th instant.

But in reply to the repeated assertion that the proposition of the collective note has taken the yamên by surprise, it may be worth while to remark that ever since the ratifications of the treaties of England and France were exchanged, in 1860, the question has been under discussion.

It is not only that one foreign minister after another has entered upon it with the yamên, but by an imperial decree of the 12th October, 1867, the yamên was directed to consider the matter. In December, 1867, Prince Kung, when informing foreign ministers of the exceptional constitution of the Burlingame mission, made the following observations:

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"It is the usage, the prince is aware, among all the great western powers, when peaceful relations exist between them, to send diplomatic representatives each to the other; and as relations of friendship and amity have now existed between the United States and China for some years, this country ought ere this to have sent to the United States an envoy with diplomatic functions; but the taking of this step has been hitherto delayed because China has not been acquainted with the language and customs of foreign nations. When, however, Mr. Burlingame, a minister who is just in his dealings and agreeable in intercourse, and who is thoroughly acquainted with the relations of China and foreign nations, and in whom the Chinese government, on its part, has always had full confidence, expressed his willingness to act in this matter for China. His Imperial Majesty, moved by a memorial on the subject, appointed him to be his high minister to proceed to all the treaty powers, and Messrs. Brown and De Champs to be first and second secretaries, respectively, to aid in performing the duties of the legation. His Majesty, in this appointment, charged Mr. Burlingame, assisted by his secretaries, with the exclusive control and responsibility of the business of the mission.

"But if no Chinese high officers had been sent, this country would have remained as unaquainted as before with the duties of diplomatic representation. His Majesty was, therefore, further requested to appoint Chih Ta Chên and Sun Ta Chên high ministers to accompany Mr. Burlingame," &c.

The important passage in this quotation is that which declares the desire of China to become acquainted with the duties of diplomatic representation as understood in foreign countries.

The Burlingame mission was everywhere received as a mission from an equal nation. It cannot be doubted that the commissioners, Chih and Sun, in accordance with their instructions, informed the Chinese government of the forms in which the sovereigns of the states they visited received them. It is certain, also, that at Washington the mission was reminded that the United States Government waived the privilege of personal audience in China only during the Emperor's minority; that in France this *observation prejudicielle* was repeated, and that the mission was requested to communicate it to the Chinese government.

The certainty that with the termination of the regency the question would at once present itself has again and again been set before the yamên, since the period referred to, by various ministers; and but seven days before the assumption of the government by His Majesty the Emperor, the ministers Tung, Chung and Hsia, who had been instructed to deliver to the minister of Germany a reply to the letter of credence still in his hands, which reply for this reason he declined to receive, were told that the imperial majority once attained, the audience question would not fail to be brought forward. His Majesty's majority having been proclaimed on the 23d of February, the auspicious event was the same day made known by Prince Kung to the foreign legations, and upon the 24th the foreign ministers requested permission to present their congratulations. The yamên protests that this proposition takes them by surprise, and after various conferences continue to affirm that foreign ministers cannot be admitted to the presence of His Majesty except upon their knees. It is urged that, as the yamên is well aware, the act of kneeling would be considered derogatory to the dignity of foreign nations.

To this the yamên rejoins that to accept less would be derogatory to the dignity of China, and when it is argued that the reception of the representatives of independent states should be accorded in a manner that admits the recognition of their equality by China, the yamên replies that to modify the etiquette of China at the instance of foreigners would be to humiliate the government, or, at least, to expose the yamên to obloquy.

I believe that I do not misrepresent the attitude of the yamên, and if it be indeed the case that the Emperor and people of China are so little aware of the equality of nations, it cannot but seem to foreign powers that the audience is even a more necessary concession than it has been heretofore regarded. There can be no reality in the profession of friendly relations between two sovereigns so long as either refuses to receive the representative minister of the other except on condition that the minister perform before him a ceremony which is by all other nations rejected as degrading. To insist upon such a condition is virtually to refuse concession of the audience, and with it those relations of friendship of which representation at foreign courts is the recognized guarantee. Let China dispense with the genuflection, and a modification of the rest of the ceremonial may be agreed to. If the genuflection be insisted on further discussion is but a waste of words.

[Inclosure 2.—Translation.]

Memorandum by the ministers of the yamên handed to Mr. Wade at the conference of the 21st March, as a reply to Mr. Wade's memorandums of the 11th and 14th.

Two collective notes, dated respectively the 24th February and 5th March, have been received from the foreign ministers, the first containing a request that the

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Emperor, having assumed the reins of government, would grant them audience, and the second asking that a day be fixed for a conference. Conferences were accordingly held upon the 11th and 14th March.

The prince and ministers have perused the memorandum handed in by Mr. Wade and the other ministers. It quotes Article IV of the British treaty of 1858, to the effect that "generally he (Her Majesty's representative) shall enjoy the same privileges as are accorded to officers of the same rank by the usage and consent of western nations."

The audience, then, being a privilege to be accorded by China to foreign ministers, by the spontaneous action of China, means should of course be found of giving effect to the proposition, in order that the dignity of either party shall be conserved. This has been understood, and has in former times been stated by the foreign ministers to the undersigned.

On the 24th of February, however, being only the day after the great ceremony of the assumption of the government by His Majesty, a note was received from the foreign representatives requesting audience. This is inconsistent with their earlier statements about spontaneous action. Will their excellencies consider how this action must be regarded from a Chinese point of view.

The memorandum further refers to a note sent by the yamên to M. de Rehfues on the 19th February.

The yamên, upon this point, beg leave to make the following explanation. The reply proposed to the copy of his letter of credence handed in last winter by M. de Rehfues was in accordance with the precedent adopted at the time a communication was received notifying this yamên of the change in the title of his government. Furthermore, this occurrence was previous to the 23d February, and is therefore to be distinguished from the question now under consideration.

The memorandum further states that there is an impression in China that foreign representatives claim to be the equals of the sovereigns to whom they are accredited, but that such an assumption would be quite unreasonable.

The statement that foreign ministers did stand upon such a footing of equality has been made by some foreign representatives. The memorandum explains with sufficient clearness their proper *status*. In the discussion some days since the ministers maintained that China did not understand the equality of states as asserted by the treaties. But China long since had relations with a foreign power on a footing of equality. Russia, as the records show, and as every one is aware, is a state with which she had long been in friendly relations. In such a statement, do the ministers mean that at the time referred to Russia was not treated by this government as an equal, or that at the present time the European states do not regard China as their equal?

The memorandum further observes that, this step being taken, foreign powers will put away their misgivings, and friendly relations will be strengthened.

Of this the prince and ministers are well aware, and they have expressed to each of you their desire for a constant improvement in our international relations. It does not follow, however, that in case this matter cannot be immediately settled, China should therefore be suspected of an intention to keep foreign powers at a distance. That peace depends, not upon the audience, but upon a mutual carrying out of treaty stipulations, is attested by the fact that in the reign of Kang Hei an envoy dispatched by that sovereign to Russia was not received by the head of that government; but, nevertheless, our relations have for two centuries continued as friendly as at first.* China has never suspected Russia of a desire to keep her at a distance. Where no coercion is attempted on either side no difficulty presents itself. It has not been necessary to wait until to-day for the dissipation of doubts, nor is a good understanding to be interrupted by this incident.

To conclude, audience is not a courtesy to which the Chinese government is averse; it rather wishes it to be maturely considered because of its great desire for a satisfactory adjustment. Could they content themselves by simply making at once a representation to the throne, the prince and ministers would have no difficulty in so doing. If, however, in such a course, the proposed measure prove acceptable, well; but if it does not, there would be a dead-lock. While by such a course the prince and ministers could easily acquit themselves of their duty, they could not at the same time satisfy their desires.

The ceremony which they propose† is a compromise calculated to avoid offense to either native or foreigner. It has not been suggested as one that would give China the exclusive advantage.

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* The grand secretary alluded to this fact on the 11th, but M. Vlangaly replied that the envoy had not been received, because he never came to the capital. Peter the Great did not object to receive him.

† Kneeling.

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This government looks for a desire on the part of the foreign ministers to exact nothing in any way offensive to the dignity of China. With such a desire, it will be possible to arrive, after mature deliberation, to an adjustment of the question.

The intelligence of the foreign ministers in all matters, especially those which affect China, is a guarantee that they will carefully consider these observations.

No. 67.

Mr. Low to Mr. Fish.

No. 244.] LEGATION OF THE UNITED STATES,
Peking, March 29, 1873. (Received June 21.)

SIR: After I had closed my No. 242, in which was detailed the substance of what occurred at our conference with Prince Kung on the 21st, we learned through an unofficial source that the prince did not understand that he had made a definite promise to lay the matter before the Emperor upon His Majesty's return from the tombs.

Under these circumstances the foreign ministers thought it advisable to seek another interview before the prince left town, with a view of arriving, if possible, at a clear understanding as to what he would do.

In response to our request for an interview the grand secretary and most of the ministers of the yamên met us. The prince excused himself from attendance, on the ground of having another engagement.

We reiterated in substance what we had said to the prince on the 21st instant as to the importance of having an answer to the collective note within the time which we had understood the prince to name. The Chinese ministers, on the other hand, asserted that further time was important and necessary, but offered no new reasons for delay.

In response we said that we had been ready to meet them and discuss all points of difference; that we had done so with entire frankness; that there did not seem to be any prospect of reaching a satisfactory conclusion by continuing these discussions; it, therefore, did not appear that anything would be gained on either side by further delay in submitting the question to His Majesty.

In conclusion, we remarked that, if the prince would address us a note before the Emperor left the capital, saying that, immediately on the return of His Majesty, the question shall be taken up and decided, we would rest content.

The grand secretary replied that he would communicate all we had said to the prince; he also said that, while it was probable our request would be complied with, he could not promise it.

On the 28th a note from the prince, embodying substantially what we had suggested, reached us, translation of which is sent herewith, (inclosure No. 1.)

At the same time we received a semi-official note, inclosing a memorandum; a translation of the latter accompanies this, (inclosure No. 2.) Its tone is, you will observe, anything but conciliatory. It clearly intimates that it would be derogatory to the dignity of the Emperor to receive foreign ministers in accordance with the usages of western nations, and that, unless we consent to kneel, audience is impossible. Were this document in the form of an official communication it might, with propriety, be considered a distinct refusal of the request for audience; in its present form the Chinese ministers will not consider themselves or the government as bound by it in any manner. In proof of

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this, and also to illustrate the devious ways of Chinese diplomacy, I may mention that Chŭng Hou, one of the ministers of the yamên, when making an unofficial call upon the French minister, to-day, remarked that the audience question was in a good way, and that it might be considered practically settled in accordance with our wishes; and, when, later in the day, the British minister called on him to inquire what inference was to be drawn from the language of the memorandum, he replied that it was solely intended as an answer to the arguments contained in our memorandum submitted to them on the 21st instant, (see inclosure No. 1 in 242,) and must not be taken as an announcement of a decision to which the government had come upon the subject.

I am disposed to regard Chŭng Hou's declaration to Mr. Geofroy as a favorable indication, although it would be quite easy for his associates to repudiate it as entirely unauthorized; nor is it impossible that he was sent with this assuring message from no other motive than to keep the foreign ministers quiet during the Emperor's mortuary excursion.

I am, however, not without hope of a favorable result.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Prince Kung to the foreign ministers.

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication in reply:

On the 25th February I had the honor to receive a collective note from your excellencies requesting an audience of His Majesty to present your congratulations on the occasion of his assuming the reins of government.

Again on the 5th March I received a dispatch requesting me to name a time for a conference. Accordingly at an appointed time an interview was had, but there still remained necessity for further discussion on the subject.

The prince would observe that China having been in relations of the most perfect amity with foreign powers for a long time, the etiquette to be observed on the occasion of an audience is of the greatest importance.

At present, in consequence of the projected visit of the Emperor to the eastern tombs, there is a great accumulation of business; it will therefore be necessary to await His Majesty's return, when the prince will consult with the ministers of the yamên and prepare a special memorial for presentation to the throne.

The prince makes this reply for their excellencies' examination, 28th March, 1873.

To their excellencies, &c., ministers of Russia, Germany, the United States, Great Britain, France.

[Inclosure 2.]

Memorandum forwarded by Prince Kung and the ministers of the yamên to the ministers of Russia, Germany, the United States, England, and France, March 28, 1873.

The memorandum received from the minister* on 21st March refers again to the passage in the 4th article of the British treaty regarding the privileges to be accorded to the British minister.

It has already been explained by the prince that in respect of privileges the Chinese government can only treat foreign ministers with the forms heretofore in vogue in China; it cannot adopt new forms.

Foreign ministers have on different occasions in past times argued this question, and the yamên has as often contended that, owing to the difference between the forms and customs of China and foreign nations, the subject would require mature deliberation before a satisfactory arrangement could be looked for.

*Mr. Wade.

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In the various discussions that have taken place since the receipt of the collective note it has never been asserted that the proposition had taken the yamên by surprise. We only argued the necessity of deliberation, the reasons for which have again and again been stated.

That the ceremony proposed by the yamên* is proper between equal nations, and that in exacting it China does not by this indicate that she regards the treaty powers as dependent states, has been so fully explained in the reply to the first memorandum presented by the ministers that it is unnecessary to repeat what has been said upon this point.

As to the mission of Mr. Burlingame and the ministers Chih and Sun, Mr. Burlingame was informed by a dispatch from the yamên, when going away, that inasmuch as the ceremonials of China and foreign nations differ, and as China could not consent to make changes which might be considered as affecting her dignity, even if exceptional privileges were accorded the mission abroad, the Chinese government would not be able to make such proceedings a precedent for her action. In the different countries visited by the mission its reception, in whatever form it may have been accorded, was the spontaneous act of the governments visited; and each government knew at the time that in China the customs and ceremonies were different. The Chinese government put no constraint upon them, and when the foreign ministers argue that the imperial government, having sent missions to the treaty powers, must now be acquainted with the rules of intercourse prevailing between western nations, the yamên might with propriety reply that the foreign ministers, having been in China many years, must be even better acquainted with the etiquette prevailing here by which intercourse between China and equal nations has been regulated hitherto.

In view of the fact that Mr. Burlingame and Chih and Sun conformed to the customs of the countries they visited, it naturally follows that foreign ministers in China should conform to the ceremonial of the Chinese government. Audience of the sovereign, as it is justly stated in Mr. Wade's memorandum, is an evidence of friendly relations. But assuming that friendly relations would be improved by granting the request of the foreign ministers for audience of the Emperor, and conceding that it would be offensive to the dignity of foreign governments were their ministers to make the *kotow*, (prostration,) it should, on the other hand, be stated that, as audience of the Emperor without kneeling would be offensive to the dignity of China, it follows that this ceremony cannot be dispensed with. When the minister styles that which is offensive to the dignity of the Chinese government an evidence of friendly relations, is not this a delusion? Even more unfair is it when speaking of a measure which it is well known is impracticable, because it is, in the opinion of every Chinese, derogatory to the dignity of his government to allude to this popular feeling as "the attitude of the yamên."

In a word, in whatever concerns the dignity of the state, each side must take care that it does no injustice to the other. In this way only can a satisfactory settlement of the question under discussion be looked for. The yamên regards this as a matter of the highest importance, and would regret to see negotiations looking to its proper adjustment end in failure.

The foreign ministers well understand China. If they will look at both sides of the question, will put themselves in place of the Chinese, will consider the position of the prince and ministers of the yamên in this discussion, they will appreciate the anxiety which this matter has occasioned the yamên and deal with it reasonably.

The prince and ministers had no desire to enter upon this discussion; they have, however, felt it their duty to reply to the second memorandum presented by the minister.

The imperial decree of 12th October, 1867, (quoted memorandum of 21st,) has never been received by this yamên, and they will be obliged by information as to the quarter from which the foreign ministers obtained it.†

No. 68.

Mr. Low to Mr. Fish.

No. 251.] LEGATION OF THE UNITED STATES,
Peking, April 25, 1873. (Received June 21.)

SIR: Referring to my No. 244, of the 29th ultimo, I have now the honor to inclose translation of a note from Prince Kung, in which the response

* Kneeling.

† The decree is embodied in a memorial from Tsêng Kwo Fan, (see diplomatic correspondence, 1868, part 1, pp. 519, 520, 521.) This document was obtained surreptitiously, but its authenticity has been admitted by one of the ministers of the yamên.

F. F. L.

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of the Emperor to our request for audience is given, (inclosure No. 1;) also a translation of a letter from the prince and ministers of the yamên, saying that further discussion of the question is necessary, (inclosure No. 2.)

The response of the Emperor is vague and unsatisfactory; but while this is so, I am disposed to regard it as indicating an intention to accede to our demand, in case it cannot be evaded by delay and indirect means. It is evident that the government does not care to take the risk of a positive refusal.

With a view of ascertaining the exact meaning of the imperial rescript, the foreign representatives addressed a note to the prince, on the 19th instant, saying that they proposed going to the yamên, on the 21st, to meet him, or whoever he might depute, when they would be prepared to discuss and settle all minor points of etiquette. The note was intended to convey the impression that we considered the main point in former discussions—genuflection—conceded and settled. On the day named the ministers of Russia, England, and France met the grand secretary and most of the ministers of the yamên.

Having met with a severe accident a few days previous, which confined me to my rooms, I was unable to accompany them; and the German minister, having left Peking for Berlin on account of ill health, was absent also. I should remark, in this connection, that the Russian minister returned from Shanghai on the 18th instant. So there are still four of the five signatories of the collective note now in Peking.

The discussion lasted four hours, and was, on the whole, not unsatisfactory. From the reports made to me by my colleagues, I infer that it has been decided to grant the audience in case the government finds no indirect means of preventing it. They will, however, be anxious to continue the discussion and thus gain time, hoping that something may occur to break the solidarity of the action of the foreign ministers.

A memorandum of the proceedings at the last conference has been promised me, but I have failed to get it in season for this mail. It will be sent in a future dispatch.

Altogether, the matter looks better than it did at the date of my last communication.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Prince Kung to the foreign ministers.

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

The collective note of the foreign ministers in which the prince and ministers of the yamên were requested to take His Majesty's pleasure regarding an audience, has already been acknowledged.

Their excellencies were also informed that, on the return of the Emperor from the imperial tombs, the question would be submitted to His Majesty in a special memorial.

The memorial was presented on the 14th instant, and the memorialists have had the honor to receive in reply the following imperial rescript:

"Let the yamên in question satisfactorily arrange whatever matters connected with an audience that are necessary to be considered and report."

"Respect this."

It is the duty of the prince to communicate this to the ministers of Russia, Germany, the United States, England, and France.

Tung Chi, 12th year, 3d moon, 20th day—16th April, 1873.

To their excellencies, envoys extraordinary, &c., from Russia, Germany, the United States, Great Britain, France.

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[Inclosure 2.]

Prince Kung and the ministers of the yamên to the five foreign ministers:

At a conference concerning the audience of the Emperor, at which were present the prince and his colleagues and the foreign ministers, it was proposed that, within four weeks, His Majesty's pleasure concerning the matter should be requested in a memorial.

The writers have accordingly presented their memorial, and have had the honor to receive a rescript, written with the vermilion pencil, a copy of which, reverentially made, they forward in an official communication.

As soon as the questions referred to in that communication shall have been satisfactorily arranged, the writers will again memorialize the throne.

With compliments, &c.

3d moon, 20th day—16th April, 1873.

[Cards of Prince Kung and all the ministers of the yamên.]

No. 69.

Mr. Low to Mr. Fish.

[Extract.]

No. 252.] LEGATION OF THE UNITED STATES,
Peking, May 1, 1873. (Received June 21.)

SIR: In my No. 251 reference was made to a conference between my colleagues and the ministers of the yamên on the 21st ultimo. It seems that the six points then formally brought forward for discussion were those upon which the government desired specific information, and the ministers were instructed to bring them to our notice. These points have been discussed at three separate conferences—one on the 21st ultimo, at the foreign office, at which I was not present, and two at this legation, at which I was present. A memorandum, in the form of a protocol, of these three conferences is now being prepared. After it is finished, and signed by both sides, it will be submitted to the Emperor with a memorial from the ministers of the yamên. A copy of the rough draft of the *protocol is inclosed.

In reading this inclosure, you will undoubtedly be impressed with the fact that the arguments of the Chinese ministers are unreasonable, and, therefore, unworthy of serious consideration. To them, however, this question is very grave, and their responsibility very great; nor can they see clearly what the future consequences will be when once the doors of the palace are thrown open to admit foreigners, and they feel their inability to provide for the contingencies that may happen. The general drift of all their proposals, and the discussions recently, is an effort to provide for the future. Although we have no specific promise, it seems to be conceded that the question, so far as we are concerned, is practically settled. I have the strongest reasons for believing that the decision of the government has already been come to, and that our demand for audience will be conceded without much further delay.

* * * * * * *

I have, &c.,

FREDERICK F. LOW.

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* For corrected copy of the memorial see page 180.

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No. 70.

Mr. Low to Mr. Fish.

No. 256.] LEGATION OF THE UNITED STATES,
Peking, May 13, 1873. (Received July 7.)

SIR: Herewith I beg to transmit copy of a letter received from Mr. Consul Sheppard, of Tien-tsin, giving an account of the proceedings of the Japanese embassy while at that place. It is interesting, and will repay perusal.

After the embassy closed their business there they came on to Peking, arriving here on the 7th instant. They occupy a temple in this city about one mile from this legation.

The morning after their arrival General Le Gendre called upon me. He came, he said, as an American citizen to pay his respects to the American minister. He took particular pains to impress me with the fact that his visit was unofficial; also, that he was unprepared to give any information as to the embassy with which he is connected, or its business; to which I replied that I had no desire to meddle with the business of the Japanese.

If, however, the embassador should at any time need my good offices, I said it would afford me pleasure to render him such assistance as I could, consistently with my other duties. In the course of the conversation I discovered the real object of the general's visit, which was to intimate that the Japanese embassador would insist that his superior rank should be recognized by all the ministers here, native and foreign; in other words, that he should expect all the foreign representatives and the Chinese ministers, including Prince Kung, to call upon him.

In response, I said that it was extremely doubtful whether such a claim could be made properly; that if made and insisted on, it would most likely isolate the embassador from the other foreign representatives, and prevent all personal intercourse between him and the Chinese government.

I further observed that I was not familiar with any rule of etiquette which would justify an embassador in taking rank over an envoy until after he had been received and recognized by the head of the government to which he is accredited. But, aside from the absolute right and wrong of this case, there are strong reasons why the foreign ministers should not accede to the request. They are now in joint negotiation with the Chinese government concerning a question that is of great importance to all the treaty powers. The business seems now to be in a fair way to an amicable and proper settlement. Were the Japanese embassador to be recognized as the dean of the diplomatic body, and take part in the negotiations now pending, it would have the effect to reopen the discussion, and this would cause delay, which would probably defeat what now seems nearly gained. I concluded by saying that, owing to my present physical infirmities, the question of making calls of ceremony could hardly be considered a practical one with me; that the decision concerning the question raised lay with my colleagues chiefly, and suggested that they be consulted.

The general seemed to be very decided in his opinions; he affirmed, with considerable warmth, that it would be derogatory to the dignity of the embassador were he to recede from the position indicated. In support of his view of the case, he referred me to the rules laid down by the Congress of Vienna of 19th March, 1815; and to the published account of the reception of Count Fleury, as French embassador at St. Peters-

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burg. He was also so indiscreet as to indulge in a menace, to the effect that in case the foreign ministers failed to recognize the claims set up by the embassador, the interests of their governments in Japan would probably be made to suffer for it.

Subsequently the general consulted with the Russian minister, and through him, as dean, with those of England and France, all of whom most emphatically declined to yield to what they considered an unauthorized assumption put forward by the embassador, or his counsellor, or both.

From what the Russian minister has told me about his interview with General Le Gendre, the latter, I infer, made use of the same arguments and threats that he did in his conversation with me. He also submitted to General Vlangaly a long written memorandum on the subject, and asked that he and his colleagues would reply to it. No answer has, I hear, been returned, nor has any notice been taken of the general's memorandum.

I may add that General Le Gendre's action in this matter has made a very unfavorable impression upon my colleagues; it has evidently increased their jealousy and distrust of him. If he displays no more discretion when dealing with the Chinese ministers, his presence here will do the Japanese much harm, I fear.

I have, &c.,

FREDERICK F. LOW.

P. S.—Since writing the foregoing General Vlangaly has called to say that he had just received a note from General Le Gendre to the effect that after the embassador notifies his presence in Peking to the Chinese government he will make an unofficial call on the foreign ministers. He also desires to recall the memorandum before referred to.

F. F. L.

[Inclosure 1.]

Mr. Sheppard to Mr. Low.

UNITED STATES CONSULATE,
Tien-tsin, May 7, 1873.

SIR: The recent meeting of the Japanese embassador with the viceroy of this province at Tien-tsin, for the purpose of ratifying the treaty lately entered into between Japan and China, has attracted so much attention that I beg to lay before you a brief account of the official interchanges which took place between the ministers of the two countries, together with a few facts and data connected therewith, which I have thought might not be without value to yourself.

Taneomi Soyéshima, the embassador extraordinary from Japan, accompanied by a Japanese admiral, arrived at Taku about the 19th of April. The flag-ship which brought the embassy being unable to cross the bar anchored outside, and on the day following the American steamer Millet was placed at the disposal of the embassador, who, accompanied by the admiral, secretary, interpreters, and attachés, embarked at once, and reached Tien-tsin at 7 o'clock p. m.

I should mention that C. W. Le Gendre, esq., late United States consul at Amoy, who is attached to the embassy in the capacity of adviser, had reached Tien-tsin the day previous by the steamer Shantung from Shanghai. The interest and curiosity which is always excited in the minds of the Chinese by the presence of Japanese in this country was greatly heightened in this instance by the fact that the Japanese appeared here for the first time in foreign clothes, *i. e.*, European costume. Among the lower classes this fact simply provoked good-natured, idle curiosity, as all novelty does among the simple-minded countrymen, but among the literati and official classes a very different feeling was plainly manifest.

Two days after their arrival the customs Taotai of Tien-tsin was deputed to convey

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to the embassador the viceroy's compliments and assurances of friendly feeling on the part of the Chinese government toward Japan, and to arrange for an official interview. An interview between the embassador and Li Hung Chang was accordingly arranged to take place at the viceroy's yamên on the following day. In due time the viceroy, with the customs and the territorial Taotais and the prefect of Tien-tsin, accompanied by a large and imposing retinue, returned the embassador's visit. These two visits were ceremonial and preliminary to the final meeting for the exchange and ratification of the treaty which took place on the 30th of April, at the shausi hui kuan in the city of Tien-tsin. The particulars of what transpired at these several interviews have not, of course, been made public officially. But by reports from Chinese sources I have gathered a few incidents connected therewith which seem worthy of note. While I am satisfied from other sources of information that these reports are substantially correct, I give them to you as matter of report simply, without vouching for their correctness. General Le Gendre, whom I before mentioned as connected with the embassy, was present at each of the two interviews which I have named, as also at the final meeting of ratification on the 30th of April above mentioned.

It is reported among the Chinese that at the first one of these interviews the viceroy, after being introduced, inquired of the embassador, "Who is this foreigner; what is his business here?" or questions to that effect. The embassador's answer was that General Le Gendre accompanied the embassy as adviser, and that he was here at the request and by the authority of the Japanese government.

The viceroy replied that "We," meaning the Chinese and Japanese, "have made other treaties before this one, and we did not find the need of foreigners to advise us, and what reason is there for it now?" He insisted that he could not recognize General Le Gendre in any official capacity relating to the embassy.

At each of the first two interviews named the viceroy's conduct toward General Le Gendre was studiously cold and uncourteous. At the final meeting, on the 30th of April, the viceroy, however, saw fit to entirely change his demeanor toward him, and on this occasion his extravagant politeness was only equalled by his former incivility and rudeness.

As far as I have been able to learn, the intercourse between the embassador and the viceroy was pleasant enough. There is, however, no disguising the fact that the ruling classes here, including his excellency the viceroy, hold the Japanese in sovereign contempt. The adoption of foreign dress and foreign manners by the Japanese has stung almost to exasperation the proud, stolid Chinese.

It is deeply to be regretted that Li Hung Chang should have taken advantage of his high official position, as it would seem he has done in this instance, to promote and strengthen the exclusive and selfish spirit of distrust of foreigners and foreign influences, so much indulged in by the pompous, conceited, and too often ignorant mandarins.

The viceroy's ungracious demeanor toward General Le Gendre did not arise, I think, from personal considerations. The fact that the Japanese had seemingly identified themselves with foreigners by employing a foreigner adviser was so entirely at variance with the viceroy's ideas of Oriental superiority that we could not resist giving his cousins from the "Rising Sun" a left-handed slap for submitting to or seeking after the guidance of western barbarians. This little incident, otherwise unworthy of notice, becomes very significant in view of the recent advances toward modern civilization made by the Japanese, and of the relations between that country and China. It gives, also, one more unhappy proof of the distrust and dislike of western peoples among the ruling classes of China.

Of the nature and conditions of the new treaty just ratified nothing has as yet transpired.

I am, &c.,

ELI T. SHEPPARD,
United States Consul.

No. 71.

Mr. Low to Mr. Fish.

No. 258.] LEGATION OF THE UNITED STATES,
Peking, May 16, 1873. (Received July 7.)

SIR: I have the honor to send herewith a corrected copy of the protocol of the recent conferences concerning the audience question, and have to request that it may be substituted for the copy that went forward as an

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inclosure in my No. 252. A copy of the Russian minister's letter, referred to in the memorandum, is also inclosed.

The Chinese and foreign ministers met at this legation yesterday and signed the protocol; it will now be laid before the Emperor, accompanied by a memorial on the subject, signed by the ministers of the yamên. We were given to understand yesterday that the Emperor's decision might be expected in about ten days.

We have no positive information as to what the result will be; at the same time I do not anticipate an unfavorable answer to our request.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.—Translation.]

Memorandum handed to the foreign ministers on the 29th April. It purports to be a copy of a memorial produced by the grand secretary and his colleagues at a conference at the yamên on the 21st instant, with notes of the arguments and observations advanced on either side at that conference. Also containing alterations and notes made at the conferences of the 27th and 29th.

The following articles set forth the various propositions relating to the audience which have to be considered. There are, besides, other essentials not completely disposed of, which will be the subject of supplementary discussion.

ART. I. The etiquette of China differing from that of foreign countries, nothing is to be insisted on derogatory to the dignity of either side.

NOTE.—Mr. Vlangaly, Mr. Wade, and M. Geofroy stated that the genuflection was impossible. The Chinese ministers answered that they could not but be aware of the objection to it, after the numerous conferences held since the 23d February, but having received His Majesty's commands to enter upon conference with a view to a satisfactory settlement, it was their duty once more to discuss the question of etiquette thoroughly, so that they might be enabled to submit it, together with the other propositions herein enumerated, to the decision of His Majesty.

The foreign ministers observed that if the subject-matter of this article were dropped forever, they could proceed to discuss the rest. They further observed that henceforth no allusion ought to be made to the genuflection, whether in official or semi-official correspondence, or in conversation.

The Chinese ministers replied that they could not say that the subject would never be brought up again. They had received His Majesty's commands to consider certain propositions, in order to their satisfactory settlement, and to report to the throne. If after their report is made the audience is practicable, there would be no occasion for further consideration of this subject; if impracticable, still less would it have to be considered. There was therefore no occasion to reiterate the injunction to mention the matter no more.

ART. II. Audience being granted to foreign ministers of the first class when provided with letters of credence from their governments, none other (*i. e.*, none without letters of credence) are included in this category.

NOTE.—The three foreign ministers then present observed that none of them was a minister of the first class. But this does not affect the audience question in any way; it matters not of what grade the minister sent may be; all that are furnished with letters from the sovereigns of their states, on their arrival in a foreign state, are entitled to request an audience of its sovereign. If they have no letter from the sovereign of their own state, and are simply provided with a letter from their foreign office, they are not in the category. Chargés d' affaires, and the like, have no letters of credence.

The Chinese ministers asked: When foreign ministers come for the first time to China, bringing letters of credence, and being thus commissioned by their sovereigns are entitled to ask to be received by the Emperor, what course is to be pursued with reference to those who have already delivered their letters of credence?

The foreign ministers replied that the best course for a minister so situated to pursue, would be to ask that his letter of credence be returned to him. He would then, when received by the Emperor, present it; he would then be in the same position as the rest.

The Chinese minister asked: How if there were a discrepancy in the surnames, names, dates of the year or moon?

The foreign ministers answered: If a minister have not a letter with his own name

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in it, he cannot borrow one with the name of another, (or a minister cannot make use of a letter of credence in which there is the name of another.) No such discrepancy affects the letter of credence that any one now minister here has presented. The date is of no consequence, as it merely indicates the time when the letter of credence was issued.

ART. III. The ceremony of the audience is one of such importance that it would be wrong were it to be performed lightly, (or without serious occasion.) It will therefore be proper that the present reception of the ministers of five powers, as set forth in this memorandum, all at one time, be made to serve as a precedent; and ministers desiring to be received will also have to wait until they are honored by a special signification of His Majesty's pleasure.

NOTE.—The foreign ministers inquired as to the meaning of this article. Did it mean that while, from this time forth, reception, as a matter of course, could not but be granted by the Emperor to any foreign minister coming to reside in China, any such minister must still wait for His Majesty's decree?

The Chinese ministers replied that the article, without doubt, did mean that the minister would have to wait for His Majesty's decree; and also that the words "present reception of the ministers of five powers, as set forth in this memorandum, all at one time," meant this: that the ceremony of audience was of too grave importance to be performed without serious occasion; therefore, for the future, ministers coming to China for the first time, their mission being a mission in permanence, would have to wait, if they were ministers entitled to ask for audience, until His Majesty should signify his pleasure on the subject. It would not be possible for each individual minister, as he arrived here, to ask for audience. Such a course would show due consideration to the gravity of the ceremony.

The foreign ministers observed that, as the position of a minister newly arriving in China, with a letter of credence from his sovereign, would not be complete until he should have delivered that letter, it follows that the condition which it is sought to impose upon their successors would not be satisfactory to their governments.

The Chinese ministers explain the meaning of the article, as follows: Were the ceremony of the audience too frequently performed, it would be made light of. From what foreign ministers now say, were a minister to arrive this moon, and next moon another, and so on, month after month without intermission, each being received as soon as he arrived, not only would there be no leisure for so many audiences, but the ceremony, from its frequency, would be made light of, and this would constitute a strong objection to making the concession.

Foreign ministers rejoined that the right to name time and place for reception of ministers being reserved exclusively to the Emperor by Art. V of this memorandum, excessive delay in according such a reception could not but be considered as evidence of an unfriendly feeling.

The Chinese ministers understood the words "collective audience of five representatives" to cause apprehension on the part of the foreign ministers that the day of reception might be too long postponed. But, on the other hand, it is contended that if every minister is to be received singly without any fixed time, (*i. e.*, as soon as he presents himself,) the audience will be lightly regarded. What answer can be made to this?

Foreign ministers reply that what they apprehend, no doubt is the too long postponement of audiences. The decision of the time when ministers are to be received, however, rests with the Emperor, and the foreign ministers having before declared that excessive delay in according a reception could not but be considered evidence of unfriendly feeling, have no difficulty in stating that they do not arrogate to themselves the right of prescribing a term.

The Chinese ministers reply: This admission being made by the foreign ministers, it follows that the date of any minister's reception in the time to come will depend upon the declared pleasure of the Emperor.

ART. IV. Before the audience the forms to be observed must be rehearsed.

NOTE. The foreign ministers asked if there would not be a written programme (or diagram) of the forms to be observed?

This was assented to.

ART. V. Ministers will have to wait for His Majesty to declare the place where, as well as the moon, the day, and the hour at which they are to be received.

NOTE. The foreign ministers made no remark.

ART. VI. China having no missions abroad, foreign nations must not charge her with a failure to reciprocate the action of governments who send ministers to China. If at any future time China sends ministers abroad, even though provided with letters of credence, it will be at the option of the government to which they may be accredited to grant them audience, or to refuse it.

NOTE.—The foreign ministers observed that a Chinese minister, unless provided with a letter of credence, could not ask for an audience. The Chinese ministers replied, that if he went without a letter of credence, a Chinese minister could not, of course,

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ask for an audience; but that even if he had a letter of credence, he was not to insist upon an audience. The Chinese government did not consider this (the audience) the point of importance. Every state should do what best suited it.

(Revised postscript handed to Mr. Wade for communication to his colleagues, 9th May.)

The ministers of the yamên, having remarked that, by reason of the return home in ill-health of M. de Rehfues, minister for Germany, the number of foreign representatives who signed the collective note requesting audience of the Emperor was reduced from five to four, have since received from Mr. Vlangaly an official communication explaining the discrepancy.

M. de Rehfues, at an interview which he had with the ministers of the yamên when he was leaving Peking, in speaking of the audience, declared that the conferences on this subject would now proceed with the four ministers, Russia, America, England and France, just as if he were in Peking.

Is it certain that if the audience question be definitely settled in conference with them, M. de Rehfues will concur with them in opinion?

The ministers of Russia, America, England, and France, are certain that nothing is advanced by them in respect of the audience question that would be dissented from by the representative of any western power. So far as M. de Rehfues is personally concerned, from the very commencement of the present discussion he again and again declared his perfect readiness to accept whatever arrangements his four colleagues above enumerated might agree to.

The text of the foregoing articles having been carefully examined, is found to represent faithfully the sense of what has been said on either side in the conferences between the Chinese and the foreign ministers.

Signed, May 15, 1873, on the part of the Chinese government, by Wen Hsiang, Mao Chang Hsi, Tung Siun, Shen Kuei Fen, Chung Hou; and on the part of the foreign governments by Vlangaly, Low, Wade, and Geofroy.

[Inclosure 2.]

Letter addressed to Prince Kung and the ministers of the tsung li yamên by General Vlangaly, Peking, April 12–24, 1873.

A collective note, signed by five foreign ministers, was handed in to your imperial highness and the ministers of the yamên in the month of February last, in which note the foreign ministers expressed their desire to offer, in the name of their respective governments, their congratulations to His Majesty the Emperor on his having assumed the government of his states.

The collective form of this note, and the signatures of the whole five foreign ministers residing in Peking at the time, shows how important they consider the question of their reception by His Majesty. The conferences that took place in consequence were, as you are aware, attended by all the ministers who had signed the note, when suddenly one of them, M. de Rehfues, envoy extraordinary and minister plenipotentiary for the German Empire, whose health soon after his arrival here had already begun to fail, became so seriously ill that the doctors ordered him to leave Peking at once, fearing that the climate here might have a fatal effect on his already shattered constitution. However much M. de Rehfues wished to prolong his stay here, in view of the important question that is about to be settled, still he was obliged to leave Peking and to return home.

All my honorable colleagues are as deeply grieved as I am myself at the sudden and unavoidable departure of the German minister, and they have charged me to express to your imperial highness and to the ministers of the yamên our regret that the number of the ministers who originally signed the note has become diminished, in view of so important a question as their reception by His Majesty the Emperor. Out of the five there remain but four, namely, the ministers of the United States, England, France, and myself, (Russia.)

No. 72.

Mr. Low to Mr. Fish.

No. 259.] LEGATION OF THE UNITED STATES,
Peking, May 22, 1873. (Received July 21.)

SIR: Refering to my No. 253 of 2d instant, I have now the honor to enclose copy of a dispatch from Mr. Consul Sheppard upon the same subject—military operations in the vicinity of Tien-tsin.

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The statements of the consul concerning the works now in course of construction, and his estimate of the number of native troops in that vicinity, are corroborated by other information which has come to me, and may be accepted as substantially correct.

As to the real object of these military preparations opinions differ. It is quite impossible to obtain reliable information concerning the purposes of the Chinese government; hence opinions upon this subject must of necessity be to a large extent mere conjectures.

It is perhaps but natural that this government should take steps to fortify the main water approach to its capital, although the practical uselessness of such works was demonstrated in 1860, and would be again should occasion arise for moving a foreign army on Peking; nor is it surprising that the viceroy of this province—by far the ablest military mandarin in the empire—should desire to have a large military force about him. The empire being now exceptionally free from domestic disturbance, few troops are required for active duty, hence there is no reason why an unusually large force may not be stationed in the vicinity of the capital. So far as I am aware the total of the force in this province is not exceptionally large, and therefore there is nothing in this that need occasion alarm; it is the sudden concentration of troops near Tien-tsin that excites remark, and causes uneasiness among foreigners.

The discussion of the audience question is regarded by most people as the principal cause of the recent military activity. It is not impossible that the Chinese at one time feared that trouble would grow out of this question; or it may be (which is much more likely) the officials thought that the assembling of troops near here would have an influence upon the foreign ministers, and cause them to moderate their demands.

It is proper that I should, in this connection, observe that nothing has occurred in our discussions which leads me to think that such was the case; on the contrary, the Chinese ministers have never used language that could be construed into a threat, nor have they, at any time, intimated that the demand would possibly be resisted by force.

In a previous dispatch I gave it as my opinion that the advent of a Japanese embassy in China, which rumor said had come to make unpleasant demands upon this government, was the chief cause of the warlike demonstrations before referred to; I also said that it was not probable the Chinese would inaugurate an offensive movement against Japan or any other nation. I am of the same opinion now.

But while it is not likely that the safety of the lives or property of foreign residents is, or will be, materially affected by the presence of a greater or less number of native troops near Tien-tsin, I have deemed it prudent to take steps to allay, to some extent, the fears of our people resident in this vicinity, and also to afford them protection in case it shall be found necessary.

From my correspondence with Admiral Jenkins, copies of which are inclosed, you will learn what has been done in this direction, and also what I deem necessary in the immediate future.

It gives me pleasure to add that I have invariably found the naval authorities ready and willing to co-operate in all measures necessary for the safety and well being of foreign residents.

I have, &c.,

FREDERICK F. LOW.

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[Inclosure 1.]

Mr. Sheppard to Mr. Low.

UNITED STATES CONSULATE,
Tien-tsin, May 19, 1873.

SIR: I beg to lay before you for your information a few facts which I have gathered regarding certain military preparations on the part of the Chinese government within this immediate consular district, during the past few days.

The first intimation I received of the presence of an unusual number of Chinese troops was about the 15th of April, while passing down the river, on my way to Chefoo. At that time a small body of soldiers were encamped in tents along and near the south bank of the Peiho, near the village of Hsin Chêng, about eight miles west of the Taku forts, and about four miles east of the more important village of Ko Ku.

On my return a few days later I discovered that this small force had been greatly augmented, and that the soldiers were busily engaged in throwing up strong earthworks and constructing forts in different places admirably suited to command the river in either direction. It was also ascertained that these troops had been moved down the Taku military road and past the foreign settlement of Tien-tsin at night, and that their force already consisted of about 15,000 troops, mostly armed with foreign rifles.

From the best information in my possession, these troops came from a large camp at Ma Chang, on the grand canal, about 100 li south of Tien-tsin. A missionary who passed through that camp recently states that there are about 60,000 soldiery there, all southern soldiers; a great portion of this body of soldiery is cavalry.

I learn from reliable gentlemen who lately visited the south fort at Taku that great activity is manifested at that garrison. The last of the three cavaliers is being rapidly pushed forward to completion, and will be finished in about two weeks. The other two cavaliers were completed, and three 100-pound Krupp guns mounted in each, commanding the entire entrance to the river. The rear defense of the fort has been strengthened by a second and inner wall as high as the outer wall, and about 20 feet from it. It has since transpired that guns are being mounted on this inner wall to the rear, and commanding the river in that direction also. A recent order of the military commandant was posted up in the fort, ordering the soldiers not to neglect the work they were about, but to attend to their duties and not absent themselves, as the work then going forward was of the utmost importance.

On the Taku road, five miles west of the fort, a new entrenched camp of 500 men was found close to the road. This camp, like many of the others which are being established, cannot be seen from the river, being hidden by clumps of trees. Three miles further west, the main encampment was found at Hsin Chêng. Hsin Chêng appears to be the name of a walled town that existed at this place some 60 or 70 years ago, of which nothing now remains but a few mounds.

The camps here extend for about a mile in double parallel lines on both sides of the Taku road. Seventeen camps were counted, but the number has since been increased to twenty-eight. Two forts have already been built, commanding the river. These forts, it is said, are to be mounted with guns cast at the Tien-tsin arsenal. The people and soldiery all say there are at present 20,000 soldiers in these camps, and that there are more to come, chiefly cavalry and field artillery. The soldiers are chiefly Honan men, and are, it is said, mostly armed with breech-loading rifles. General Chou is in command.

As to the real object and purpose of this unusual and apparently unnecessary preparation on the part of the Chinese government, it does not, probably, become me to venture a decided opinion at this time. The fact is, however, apparent that the Chinese are for some reason strengthening their military defenses from Taku to Tien-tsin. As these preparations are all being pushed forward with unwonted vigor and haste in a time of profound peace, and without any apparent cause, it seems to me that such a proceeding, unexplained on the part of the Chinese government, pending the discussion of a great international question so full of possible consequences as that of the audience question, now under consideration at Peking, is susceptible at least of a very serious interpretation. Between civilized countries such an act would unquestionably be considered as a menace, unless accompanied by satisfactory explanations.

I am, &c.,

ELI T. SHEPPARD,
United States Consul.

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[Inclosure 2.]

Mr. Low to Admiral Jenkins.

LEGATION OF THE UNITED STATES,
PEKING, *May* 13, 1873.

ADMIRAL: I have the honor to transmit copy of a note which I have addressed to Commander Bunce, of the Ashuelot.

In further explanation of the reasons for wishing to detain the Ashuelot at Tien-tsin, I would observe that within the last four weeks a large number of Chinese troops have been concentrated near the river, between Tien-tsin and Taku, where entrenchments are being thrown up. It is also said that a new fortification is being built near the place where these soldiers are concentrated.

From information which may be considered reliable, I estimate the number of troops now encamped along the river between Tien-tsin and Taku at 15,000 to 20,000. There are also at other camps, away from the river, but within ten or fifteen miles of Tien-tsin, as many more, probably.

What these warlike demonstrations mean I am unable to say. It is not impossible the government thinks that this demonstration of force will have the effect to intimidate the foreign ministers who have made a request for personal audience of the Emperor, or it may be a preparation for possible contingencies in case the demand is refused and foreign governments decline to submit quietly to the rejection of their demand. My own impression is, however, that the reason for assembling these troops at this moment may be set down to a desire on the part of the Chinese to make something of a display of force, as an intimation to the Japanese embassy now here that unreasonable demands will be resisted. I do not anticipate in any event an offensive movement, either against the Japanese or foreigners generally.

But while this is my belief, I cannot shut my eyes to the possible danger there may be in these movements, nor to the necessity of adopting every reasonable precaution for the protection of the lives and property of our citizens in this vicinity.

In view of these considerations I should regret to see the naval force now at Tien-tsin withdrawn. I may add that Commander Bunce's apparent anxiety to leave Tien-tsin is because his vessel needs repairs. But even if repairs are necessary to render her safe and serviceable at sea, they would not, I imagine, add to her usefulness in her present position.

If, however, it should be decided to withdraw the Ashuelot from Tien-tsin, I would most respectfully suggest that the Monocacy be sent to relieve her, and that the former should remain until relieved by the latter.

I have, &c.,

FREDERICK F. LOW.

P. S.—Since writing the foregoing I have received your dispatch of 18th April. With reference to your suggestion about the Yantic, I have to say that, if her presence is not absolutely needed elsewhere, I would be glad if she were ordered to Chefoo.

[Inclosure 3.]

Admiral Jenkins to Mr. Low.

U. S. SHIP HARTFORD, FLAG-SHIP ON THE ASIATIC STATION,
Hong-Kong, April 18, 1873.

SIR: I had the honor to receive to-day your dispatch, dated April 5, informing me of your request to Commander Bunce, commanding the Ashuelot, to delay his departure from Tien-tsin until the 1st of May, or longer should events seem to require the retention of the vessel at her present station.

I had already received dispatches from Commander Bunce, informing me of your request and of his compliance therewith, and, on the 7th instant, transmitted to him instructions to remain at Tien-tsin until he is informed by you that the presence there of the ship is no longer necessary, or until he is relieved by another vessel.

I trust that it may not be necessary to keep the Ashuelot at Tien-tsin much longer, as her crew need a change and the ship requires some repairs; but if it should seem to be important to have a vessel there I shall relieve her by another.

If you deem it to be of any advantage, either as a precaution or otherwise, I will order the Yantic, a small sloop of war drawing about 13 feet of water, (just arrived on the station,) to Chefoo, as she could probably pass the Taku bar with a high tide. She might be useful should difficulties arise. I hope, however, that the present causes of uneasiness will soon be removed by a satisfactory settlement of the questions which have recently proved so embarrassing to the ministers at Peking, and, meantime,

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I beg to assure you that every suggestion from yourself as to any measures which may lie in my power to carry into effect to assist you will receive the most cordial and careful attention.

I expect to reach Shanghai on or before the 10th of May, and I shall be glad to receive there any communication you may favor me with.

I have, &c.

THORNTON A. JENKINS,
Rear-Admiral Commanding U. S. Naval Force on Asiatic Station.

No. 73.

Mr. Low to Mr. Fish.

No. 260.] LEGATION OF THE UNITED STATES,
Peking, May 27, 1873. (Received July 21.)

SIR: Referring to my No. 172 of July 12, 1872, I have now the honor to inform you that a second instalment of thirty Chinese students will be sent on the steamer leaving the 12th of June for the United States. They will be accompanied by one tutor and one interpreter. These youths are from eleven to fourteen years of age.

I have sent a list of those people, properly certified, to the vice-consul-general, which will enable them to take advantage of the liberal proposal of the Pacific Mail Steamship Company to transport Chinese students and their teachers and guardians at reduced rates of fare.

It is proper that I should observe in this connection that the prince and ministers have, on several occasions, expressed their satisfaction at the generous and kind reception which those that were sent last year met with; and the sending of the second instalment, two months earlier than the date originally fixed upon, shows that the undertaking has, thus far, more than met the expectations of its promoters.

I may add that the departure of these youths, at this moment, with the express assent and approval, if not under the immediate patronage of the imperial government, is an indication that the officials here do not regard an interruption of friendly relations between China and foreign nations, and particularly the United States, as among the probabilities or possibilities.

I have, &c.,

FREDERICK F. LOW.

No. 74.

Mr. Low to Mr. Fish.

No. 262.] LEGATION OF THE UNITED STATES,
Peking, June 7, 1873. (Received August 6.)

SIR: I have the honor to send herewith extracts from two dispatches of the British consul at Tien-tsin to Her Majesty's minister in Peking; also a sketch showing the location of the new fortifications now in process of erection at Hsin Chêng, (the new military camp between Tien-tsin and Taku,) and that portion of the river which the new forts will command.

Having visited that locality and made inquiries on the spot, the British consul is able to furnish some additional information, and many in-

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teresting particulars in regard to what we already know. The report as a whole agrees with that made to me by Mr. Consul Sheppard, a copy of which went forward with my No. 259 of 22d ultimo.

Within the last few days there have been landed at Tien-tsin two large breech-loading Krupp guns, (said to be 260-pounders,) and 20 field-guns (4 batteries) of same pattern. The two large guns are, I hear, intended for the new fortification at Hsin Chêng.

As to the object of the Chinese in making these extensive military preparations, I have no information in addition to what has already been communicated to the department. I see no reason, however, to modify the opinions contained in previous dispatches on the subject.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Extract from the British consul's dispatch to Her Britannic Majesty's minister.

PEKING, *May* 29, 1873.

* * * * * * *

In company with the acting French consul and M. Coutenson,* I proceeded by boat to Hsin Chêng on the afternoon of the 26th instant. We arrived there on the morning of the 27th, and found the landing-place thronged with fatigue-parties, carts, and coolies, employed in conveying lime, bricks, &c., to the works.

We asked one of the soldiers which was the shortest way to the nearest of the large recently constructed earth-works, and he immediately pointed it out to us, whereupon we walked through the camps, no opposition of any sort being offered to our doing so, and ascended the work itself, which is a circular tower 31 feet high and 303 feet in circumference. The two others are of similar dimensions, and all will be inclosed by a new wall, which is now being constructed, and which, we were told, would be, on each of its four sides, 970 feet in length, while its breadth would be 170 feet, and its height 26 feet. A canal large enough for a gun-boat to steam in is to be made outside the new wall, and when this has been completed, the old high-road between Tien-tsin and Taku (passing east and west through Hsin Chêng, and now temporarily blocked on either side during the progress of the works) will be re-opened, and the An Huei and Honan militia all withdrawn from the eighteen camps which they now occupy, into the new town. I have only time to add that we were well received by General Wu, the commander-in-chief. * * * * *

[Inclosure 2.]

Extract from a dispatch from the British consul at Tien-tsin to Her Majesty's minister.

PEKING, *June* 3, 1873.

I have the honor to inclose copy of a general plan of Hsin Chêng, on the Peiho River, kindly placed at my disposal by M. de Coutenson, military attaché of the French legation, in whose company I visited the place on the 27th ult.

I have added some explanatory remarks, and though Hsin Chêng itself appears in the plan on too large a scale, the general idea conveyed is sufficiently accurate.

The new town (so Hsin Chêng may be translated) is a square to be surrounded by a wall and a navigable canal, (so we were told on the spot,) the former of which is now in course of construction. We were told that this wall would be 970 feet long on each of the four sides, 170 feet wide, and 26 feet high, but these measurements, I believe, are exaggerated.

The commander-in-chief, with whom we breakfasted, told us that he had 20,000 men under his command in the eighteen temporary intrenched camps now in the neighborhood. The men will all be removed from these into Hsin Chêng when the works now in progress are completed, pending which the old Taku road has also been blocked up, as we saw on the east side of the town, and a new road made to the southward of the position.

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* Military attaché of French legation.

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The intrenched positions at the bends of the river, both above and below this town marked "a" and "c" on the plan, will, I believe, be retained. The latter, indeed, is not in the Hsin Chêng but in the Taku military district, and is garrisoned only by artillery.

We were much struck by the fine appearance of the "hwai yung" (soldiery) at Hsin Chêng, and the heartiness with which they worked. I mentioned this to an officer who accompanied us over the works, and he said it was because no opium-smoking was allowed in the camps, and the men were kept under very strict discipline.

General Wu had previously informed us that the punishment for opium-smoking was slitting or excision of the upper lip for the first offense, and decapitation for the second.

Hsin Chêng is by river about fifteen miles above Taku, and five miles below Koku, the adjoining country on the river-side being well wooded, but that on the south and southeast a barren plain. It seems to be a well-chosen position for defensive warfare.

I asked the general's secretary if they had any torpedoes, and he said "yes." They are called shun to lei, or "submarine thunder," and he explained that they were exploded by a galvanic battery.

The general has been studying the geography and history of the western nations and mentioned with special admiration the names of Washington, Napoleon, and Mahomet. He seemed to find a good deal of satisfaction in contrasting the population and area of China with England, France, and the other European countries. * *

No. 75.

Mr. Low to Mr. Fish.

No. 264.] LEGATION OF THE UNITED STATES,
Peking, June 13, 1873. (Received August 6.)

SIR: The Japanese embassy is still in Peking. The embassador has called to see me several times, and I have been to see him as often as the state of my health would permit. The question of priority of rank, which, at one time, seemed likely to hinder the establishing of cordial relations between him and my colleagues, has, I am happy to say, been put aside for the present, with an understanding that it shall remain in abeyance until all shall have presented their letters of credence.

In his conversations with me the embassador has spoken freely and with apparent frankness concerning the purposes of his mission and the business with which he is charged.

There are, he says, only two questions of importance which he desires to discuss with the Chinese government:

First. Whether China is responsible for the acts of the aborigines on the island of Formosa. If the government answers this question in the affirmative, he will then demand redress and indemnity for the murder of some natives of Loo Choo, who were wrecked there a year and more ago. If the answer is in the negative, notice will then be given that Japan proposes to send a military force to Formosa to chastise the savage and semi-civilized tribes that practically hold undisputed possession of the large part of the island; and, as there are no safe harbors on that part of the island where the aborigines reside, permission will be asked to land troops at one of the ports open to trade, and to march them through Chinese territory that lies between the ports and the points where the troops are intended to operate against the savages.

Second. To ascertain the precise relations between China and Corea, whether the former claims to exercise such control over her tributary as to render China responsible for the acts of the Coreans, or whether other nations must look to Corea alone for redress for wrongs and outrages which her people may commit.

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In regard to the kingdom of Loo Choo, which, as you are aware, Japan has taken formal and actual possession of, he has nothing to say to the Chinese. The Loo Choo Islands, he says, are now a part of the Japanese Empire; nor will China or any other country be permitted to question the right of Japan to exercise complete jurisdiction over what was formerly the kingdom of Loo Choo.

The embassador has not as yet been afforded an opportunity to present his letters of credence to the Emperor. Until this can be done, and his position as representative of Japan is recognized in a fitting and proper manner, no steps will be taken to bring the other questions to the notice of the imperial government.

It is understood that negotiations are now pending with reference to the request of the embassador, made soon after his arrival at Peking, for an audience of the Emperor; it is also understood that, at his last interview with the yamên, the Chinese ministers were given to understand that, unless an affirmative answer was returned to his request within a certain number of days, the embassy would be withdrawn from Peking, and relations between the two governments would cease.

In response, the Chinese ministers said that an answer would be sent within the time named, and intimated that it would be such as would satisfy the embassador.

I have, &c.,

FREDERICK F. LOW.

No. 76.

Mr. Low to Mr. Fish.

No. 265.] LEGATION OF THE UNITED STATES,
Peking, June 15, 1873. (Received August 6.)

SIR: I have the honor to inclose the translation of a dispatch just received from Prince Kung, covering an imperial decree concerning audience.

A note from the ministers of the yamên, requesting the foreign ministers to meet them to-morrow, accompanied the prince's dispatch. By the terms of the decree the government concedes all that has been asked, the right of foreign ministers holding letters of credence from their governments to present them in person to the Emperor.

The proposed meeting is appointed for the purpose, probably, of settling minor points of etiquette, and I shall not be disappointed if the Chinese ministers propose many things which, under other circumstances, would be considered unimportant, but which we may feel bound to object to in view of the fact that what is done now will be taken as a precedent for the future. The main point, however, having been conceded, I do not anticipate serious difficulty in arranging minor details; nor is it probable that the final settlement of this perplexing and tiresome business will be delayed beyond a few days, or weeks at farthest.

By next mail I hope to complete the narrative of the proceedings touching the audience question, and my action in connection therewith; I also hope to be able to report that all the foreign ministers have been received by the Emperor in a manner befitting the dignity and honor of the governments they represent.

I have, &c.,

FREDERICK F. LOW.

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[Inclosure 1.—Translation.]

Prince Kung to the foreign ministers.

Prince Kung, chief secretary of state for foreign affairs, makes the following communication:

The yamên having presented a memorial to the throne showing that the foreign ministers resident in Peking have urgently requested* an audience to present letters from their governments, had the honor to receive on the 14th instant the following decree:

"The Tsung-li yamên having presented a memorial to the effect that the foreign ministers residing in the capital have requested an audience that they may deliver letters from their governments, we command that the foreign ministers residing in Peking who have brought letters from their governments be accorded audience. Respect this."

It is the duty of the prince to communicate a copy of the imperial decree to the ministers of Russia, the United States, England, and France.

JUNE 15, 1873.

No. 77.

Mr. Low to Mr. Fish.

No. 268.] LEGATION OF THE UNITED STATES,
Peking, June 27, 1873. (Received August 20.)

SIR: In my No. 258 of the 16th ultimo I stated that discussion concerning the audience question was substantially closed, and that a protocol of the recent conferences between the Chinese and foreign ministers had been prepared and would without delay be presented in a memorial by the yamên to the throne. A copy of the protocol accompanied that dispatch.

The following day the foreign ministers received a note from the yamên inclosing the draft of what purported to be a *précis* of the protocol which the yamên had drawn up, and which they said it was proposed to embody in their memorial to the throne instead of sending the original document, as had been agreed upon.

The reason assigned for this proceeding was that the protocol was too long for the Emperor to read. A copy of the *précis* is herewith inclosed. (Inclosure 1.)

Instead of the *précis* being a fairly accurate summary of the contents of the protocol, we found it to be a grossly inaccurate *résumé* of our recent debates. It contained every suggestion and admission of the foreign ministers that had a bearing favorable to their view of the case, and everything that did not tend to sustain the pretensions put forward by the government was carefully excluded. In addition, they had embodied in it every written and verbal suggestion made at the conferences before the discussion of the points embodied in the protocol. As an illustration of this, and also to show how these people seize upon the veriest trifles to try and sustain their superior dignity, I may mention that at an interview with the prince in March last, when he was insisting strongly that foreign ministers should kneel when in the presence of the Emperor, asserting that this was a great concession, and com-

* The Chinese character here employed signifies, "to request, to beg, to beseech;" it may therefore be by some considered disrespectful. It is, however, the character commonly used when princes and other high officers make requests of the Emperor; therefore it may be inferred that no disrespect was intended.

F. F. L.

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plaining that we offered no compromise whatever, we replied that we were ready and willing to conform to Chinese etiquette so far as this could be done without compromising our own self-respect or the dignity of our governments. As an evidence of our disposition we remarked that, while it was usual for a minister to make three reverences when approaching the head of a foreign state at a reception, we would, if so desired, when presented to the Emperor, make five, in token of wishing him the "five happinesses."

The prince received this suggestion with a smile of derision; he evidently thought it a pleasantry, and the only remark he made in response was that "a hundred revereuces were not equal to one kneeling." The subject never was referred to afterward, nor was any mention made of it in the protocol; hence our surprise when we saw that matter brought forward again.

The two positions the Chinese ministers have labored to maintain in all our discussions are:

First. That the admission of foreign ministers to a personal audience of the Emperor of China is a courtesy which can with equal propriety be granted or declined, and not a *right* which foreign governments can claim for their representatives.

Second. That the present reception (if accorded) shall serve as a precedent for the future. In other words, when a new minister comes he will not be entitled to ask for an audience by himself, but will wait until there are five, (the number that joined in the collective note of 24th February,) when all will be received together.

In our oral discussions with the Chinese ministers, and also in our written memorandums submitted to them, I and my colleagues have firmly maintained that every foreign minister who brings with him a letter from the head of his government, addressed to the Emperor of China, is entitled by the laws and usages of nations to a personal audience of His Majesty within a reasonable time after he shall have notified the foreign office of his arrival at Peking. And in response to their suggestion that a Chinese minister when he goes abroad may with propriety decline a reception tendered him by the head of the state to which he is accredited and still continue to perform the duties of his office, we said the option did not rest with the minister; that by the usage of nations a minister could not enter upon his duties until after he had delivered his letter of credence and been formally recognized by the head of the state, and that should he decline to deliver his letters accrediting him as a diplomatic agent to the chief authority of the state, he would be liable to have his passports returned and ordered to leave the country.

The making of the *précis* was, under the circumstances, an unworthy effort on the part of the yamên to lay before the Emperor and the high officials an unfair statement of the case, and the submitting of a copy for the inspection of the foreign ministers was an attempt to get an indirect assent to what we had stoutly denied in our discussions on the subject.

On the 19th May, at our request, we met the Chinese ministers, and repeated, in a manner not to be misunderstood, the statements and arguments used on previous occasions touching these two points. We declined to accept the *précis* as a fair statement of the case, and requested them to submit the full text of the protocol to the Emperor; and, to guard against further misapprehension and trouble, we concluded to address a note to the same effect to the prince. (Inclosure 2.)

To this the prince replied on the 27th May. (See inclosure 3.)

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On the 28th we sent Mr. Bismarck (our general interpreter) to the yamên to say on our behalf that the prince's note had been received, and that we had nothing, in addition to what had already been said to his imperial highness and the ministers of the yamên, to say in reply, and that we hoped for a definite answer to our request for audience without further delay.

After that no communications passed between the foreign ministers and the Chinese government until the 15th June, when a note was received from the prince inclosing copy of a decree according the audience, and a letter from the ministers of the yamên asking us to meet them on the 16th instant to discuss with a view of settling the question of ceremonial to be observed.

I should observe in this connection that the decree of the Emperor, before referred to, was published in the Official Gazette of the 15th instant.

The programme of the ceremonies submitted at the interview on the 16th was in many respects objectionable. Had they been allowed to carry it out it would have gone far to nullify the good effects of the audience, so far as the masses of the people are concerned. The discussion that ensued was by far the warmest of any that has occurred: it continued for five hours, and we separated without having reached any conclusion whatever.

On the 18th instant Chunghow, late embassador to France, and now one of the ministers of the yamên, visited M. Geofroy to ascertain whether a settlement of the difficulty was possible, and through them arrangements were made for a renewal of the negotiations.

On the 23d a general conference was held, at which all the points of difference were discussed, and an agreement come to on all except two. Since then these have been satisfactorily arranged, and the 29th instant has been named for the reception.

In a future dispatch a detailed description of the reception will be given.

If it should appear that I have been unnecessarily minute in relating the history of those proceedings, the reason will be found in the fact that as this reception will be quoted as a precedent by the Chinese, it is desirable that a full and complete history of the affair shall go upon the records of the legation and the Department for future reference. And besides, this is a question in the discussion of which the representatives of five nations have taken part, and, as each will make a separate report to his own government, too much care cannot be taken in laying all the essential particulars before the Department for its information, in case it should become necessary to open a correspondence with other governments about the matter.

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.]

Memorandum prepared by the ministers of the yamên in accordance with the notice given by them at a conference on the audience question, held on the 15th May.

PART I.

1. As to forms in an audience:

The sovereign in any state may receive a foreign minister seated or standing. Should he ask the minister to drink tea or wine, or show him other civilities, such

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acts are but acts of graciousness on the part of the sovereign, and are not to be insisted on by the minister.

2. The foreign minister, when presented, will commonly address the sovereign certain words of compliment or congratulation, but will not initiate a conversation on business. The sovereign visited can, if he pleases, discuss affairs with a foreign minister; but he is perfectly free to decline any such discussion, should the minister commence it, or even desire to continue it.

3. In the present case it is most likely that the doyen alone will speak on behalf of his colleagues, and, this ended, it will rest with his majesty whether any more is said.

4. Foreign ministers would without doubt do all that in them lay to make the necessary departures from Chinese etiquette as little offensive as possible to the prejudices of the Chinese.

PART II.

ART. 1. The etiquette of China differing from the etiquette of foreign governments, nothing is to be insisted on derogatory to the dignity of either side.

The foreign ministers observed that in their countries ministers having audience either of their own or of foreign sovereigns, neither prostrate themselves nor go down on their knees, but they make three reverences. In the audience they were now requesting of the Emperor, in token of special respect, they would instead make five reverences.

The Chinese ministers replied that as it was contrary to Chinese etiquette to omit the genuflexion, it must be left to His Majesty the Emperor to signify his pleasure on this subject.

ART. 2. The ministers of foreign states holding an effective appointment as such being provided with letters of credence from their own sovereigns, on coming to China to reside for the first time, will have audience of the Emperor, in order to present their letters. No others are entitled to request audience.

ART. 3. The ceremonial to be observed and the language to be used must be rehearsed beforehand according to written programme.

ART. 4. It will rest with His Majesty the Emperor to name the place, moon, day, and hour at which ministers are to have audience.

ART. 5. When agreement shall have been arrived at regarding the propositions now under discussion, foreign ministers, no matter sent by what power or belonging to what grade, when coming to China for the first time, provided with a letter of credence, will act in strict accordance with the etiquette observed in the present instance by the ministers of the five powers, and will in no particular deviate from it.

ART. 6. The ceremony of the audience is one of such importance that it would be wrong to have it performed without serious occasion. For the future ministers coming to China for the first time, their mission being "in permanence," they will be bound to abide by the rules set forth in this memorandum, under which five ministers are received at the same time, and will respectfully wait until His Majesty shall be pleased to declare at what time they are to be received. They cannot ask one by one for an audience. Thus the gravity of the ceremony will be duly appreciated.

ART. 7. The Chinese government having at present no mission abroad, must not on this account be reproached with failure to reciprocate.

Should the Chinese government hereafter send ministers abroad provided with letters of credence, it will be optional with the power to which they are sent whether they have audience or not. If, because of difference in etiquette, or for any other reason, the Chinese minister objects to be received, he shall have his option in the matter, and shall conduct the business of his mission as usual, whether received or not, the important point, in the opinion of the Chinese government, being not audience, but friendly relations.

The foregoing are the propositions that have been discussed in conference.

[Inclosure No. 2.]

Foreign ministers to the yamén.

PEKING, *May* 20, 1873.

The undersigned, ministers of Russia, the United States of America, Great Britain, and France, have perused a paper communicated to them by their excellencies the ministers of the tsung li yamên on the 19th instant, as a summary of the protocol signed upon the 15th instant.

Looking to the possible insertion of this document in a memorial to be laid before

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the Emperor, it is the duty of the undersigned to state to Prince Kung that it does not, in their opinion, reproduce with sufficient fidelity the substance of the protocol, and that it is the latter paper alone that they recognize as faithfully expressing what has passed on either side in the conferences on the audience question.

The undersigned request his imperial highness to cause this their declaration to be appended to any report on the subject that shall be presented to His Majesty.

The undersigned renew, &c., &c.

VLANGALY.
LOW.
WADE.
DE GEOFROY.

[Inclosure No. 3.]

Prince Kung to the foreign ministers.

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication.

The prince has had the honor to receive upon the 20th May, 1873, a communication from their excellencies the foreign ministers of the same date.

The prince would observe that the matter in the form of articles at the beginning of the summary of the protocol consists of selections from the memoranda handed in in March, the wording of which has not been added to or changed.

The passage regarding five reverences, which has been added to Article 1, also represents a statement made by the foreign representatives at one of the conferences held during the month of March. The rest consists of selections from the protocol signed at the last conference, and is identical in meaning with that document.

The foreign representatives object to the proposition contained in the following words: "Should the Chinese government send ministers abroad, it will be optional with the government to which they are sent, and also with the Chinese ministers themselves, whether audience be had."

This has reference to a possibility of a difference existing between the etiquette of China and that of foreign nations, or to the possibility of other obstacles, and it was therefore, a matter of duty to make this statement beforehand.

It is now proposed, instead of the words, "optional with the Chinese minister," to substitute "on the other part no constraint shall be put upon the Chinese minister;" the text then proceeding, "but he shall conduct the business of his mission the same as though audience had been had;" the text being the same as before. This slight addition has been made because of a statement of the foreign ministers that, unless the Chinese minister had audience of the head of the government to which he was accredited, he could not transact business. This rendered an explanation in advance necessary. It has really nothing to do with the audience now being discussed.

With regard to the words "for the future ministers coming to China for the first time * * * * * * are bound to abide by the rules set forth in the protocol under which five ministers are received at the same time, and are to wait His Majesty's pleasure as to the time of their audience," this condition has been discussed at the conferences, and it was agreed that any minister requesting audience would wait respectfully the declaration of His Majesty's pleasure. This passage is identical with the meaning of the protocol. Their excellencies the foreign ministers having written to say that the summary does not sufficiently represent the sense of the protocol, the prince thus in this communication emphatically reiterates the verbal explanations given by the ministers of the yamên at the interview on the 19th instant, in order to avoid further misconception on the part of the foreign ministers and further delays resulting therefrom.

MAY 27, 1873.

To their excellencies, ministers, &c., from Russia, the United States, Great Britain, France.

No. 78.

Mr. Low to Mr. Fish.

[Unofficial.—Extract.]

PEKING, *June* 30, 1873. (Received August 20.)

SIR: I have only time before the courier leaves to write a hasty note to say that the foreign ministers were all received at a personal audience

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of the Emperor yesterday, in a manner which will, I trust, be satisfactory to foreign governments.

The practical solution of this question, one that has at different times occupied the attention of several European governments during the last one hundred and fifty years without reaching a result at all satisfactory, is a cause of congratulation. This distinct recognition of the equality of western nations will, I trust, be productive of the best results in the future; and while its good effects may not be seen immediately, I shall be much disappointed if foreign nations do not date a "new departure" in their relations with China from yesterday.

* * * * * * * *

By the next mail I shall be able to send you the full particulars of the reception.

In conclusion, permit me to tender to you, and through you to the President, my thanks for your instructions touching this question. It is no exaggeration to say that to them the result is chiefly due.

Very respectfully, &c.,

FREDERICK F. LOW.

No. 79.

Mr. Low to Mr. Fish.

No. 271.] LEGATION OF THE UNITED STATES,
Peking, July 10, 1873. (Received September 3.)

SIR: On the 29th ultimo the embassador of Japan and the ministers of Russia, the United States, England, France, and Holland were personally presented to the Emperor. Subsequently the French minister had a separate audience, to present a letter from the President of the French Republic addressed to the Emperor of China. This letter was a reply to one from the Emperor to the head of the French government which Chunghow took to France in 1870.

The arrangements for the audience and the ceremonies were in strict accordance with the agreement made with the ministers of the yamên, a memorandum of which had been officially submitted to the foreign ministers by Prince Kung. A translation of this memorandum is herewith inclosed. (Inclosure No. 1.)

At 6 o'clock a. m. on the day before mentioned the five foreign ministers assembled at the Fu Hua gate, (one of the gates in the wall that surrounds the forbidden city,) where they were met by the grand secretary, Wên-Hsiang, and several ministers of the yamên, who conducted them to the Shih Ying Kung, a temple within the forbidden city, which contains the rain god, and where the Emperor goes to offer sacrifices and pray for rain in seasons of drought. Here we found the Japanese embassador, who had arrived before us. We were shown into the imperial robing-rooms attached to the temple, where refreshments, consisting of cakes, sweetmeats, fruits, and tea, were served. The refreshments, the Chinese ministers were particular to inform us, had been prepared in the imperial household. After waiting at the temple an hour and more, we were conducted to a large marquee on the west side of the Tsz-Kuang-Ko—the reception-hall—where Prince Kung and the rest of the ministers of the yamên were waiting to receive us. Here we rested for some time awaiting the arrival of the Emperor. All along

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the route on either side, from the Fu Hua gate to the temple, and between the temple and the hall of reception, were ranged rows of officials, civil and military; and a few cavalry soldiers, and a still larger number of officials, were assembled in the immediate vicinity of the hall. The officials were chiefly civil mandarins, the military being largely in the minority. All were dressed in their official uniforms.

As soon as the Emperor arrived and had taken his seat in the chair of state within the hall, the Japanese embassador was introduced. He delivered a short address and presented his letter in the manner agreed upon; and the Emperor responded through Prince Kung in substantially the same terms that he did to the foreign ministers.

When he had retired the five foreign ministers entered the hall in the order of the priority of their commissions, and ranged themselves in a line in front of and facing the Emperor, with Mr. Bismarck, the interpreter, immediately behind the dean-general, Vlangaly. The Emperor was seated in his chair of state, which was placed upon a dais about ten or twelve feet square and surrounded by a railing. Upon the dais and near the Emperor's chair stood Prince Kung, two other princes, and two "ministers of the presence." Extending from either front corner of the dais, in oblique line to the front corners of the hall, were double rows of high ministers, including all the ministers of the yamên. Upon the terrace outside the hall and on the grounds in front were hundreds, and probably thousands, of mandarins whose rank would not permit of their entering a building in the presence of the Emperor.

As soon as the foreign ministers had taken their places within the hall the Russian minister proceeded to read the French version of the address. (Inclosure No. 2.) When he had concluded, Mr. Bismarck read a Chinese version of it. As soon as the reading of the address was concluded, all the ministers advanced one step, and placed their credentials on the yellow table, which stood between them and the Emperor, the latter, at the same moment, bowing in token of recognizing their reception. Then Prince Kung, who had been standing at the left of the Emperor, knelt to receive His Majesty's reply. After which he advanced toward us, and said: "His Majesty acknowledges the receipt of the letters presented by the foreign ministers." The prince returned, and again knelt near the Emperor to receive another message, when he advanced as before and delivered it as follows:

"His Majesty expresses the hope that the emperors, kings, and presidents of the states represented by your excellencies are all in good health, and His Majesty trusts that all business between foreign ministers and those of the tsung li yamên (foreign office) will be settled amicably and satisfactorily." All the ministers then retired except M. de Geofroy, who, after his interpreter had been introduced, made a short address and delivered the special letter with which he had been charged by his government, the Emperor acknowledging its receipt the same as before. When the foreign representatives had all re-assembled at the temple, and after again partaking of refreshments, they were conducted by the ministers of the yamên to their chairs at the Fu Hua gate.

It is due to the ministers of the yamên that I should say that all their promises touching the reception were fulfilled honestly and fairly. The arrangements were well ordered, so that there was really nothing to complain of; and the reception was in itself respectable and entirely respectful to foreign governments.

I may remark in this connection that the hall in which the reception took place is not the great hall where the Emperor usually receives his own officials. It is, however, one of the many reception-halls scattered

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through the grounds of the forbidden city, and is exclusively used for receptions by His Majesty.

It is not impossible that the effect upon the Chinese would have been better had the reception taken place in the great hall. Upon this point, however, we did not deem it advisable to insist; indeed, it was waived voluntarily early in the discussion. The reasons for not insisting upon the reception taking place in the great hall were:

First. By the usages of nations the sovereign granting an audience can name the time and place; and,

Second. We deemed it policy not to be too exacting on minor points provided the Chinese government would sacrifice all their notions of propriety and consent to receive the representatives of foreign governments without prostration or genuflection.

In addition to these considerations it may be doubted whether any government would sustain its diplomatic representative were he to insist on dictating to the Emperor of China as to the place for a reception, so long as the reception-hall proposed was one usually devoted to that purpose, as was the case in the present instance.

Upon some other points there was disagreement and considerable discussion before they were finally arranged. The Chinese ministers objected to having the secretaries and attachés of the legations accompany the ministers, and, as our discussions had all been carried on through the agency of a single interpreter, they objected to having more than one present at the audience.

These two points were yielded on the condition that they would consent to give the French minister a separate reception for the purpose of delivering his special letter, at which he should be accompanied by the interpreter of his own legation. This was finally agreed to.

By this arrangement the Chinese ministers yielded, at the last moment, one of the positions they had been fighting to maintain all through the discussions; and a precedent is now established which will, it may be presumed, obviate the necessity of discussion or dispute in the future—that a foreign minister coming to China and bringing a letter from the head of his government addressed to the Emperor on any subject is entitled to deliver it in person.

By the programme originally submitted to us we were to lay our letters of credence on a table, from which they would be taken by one of the Chinese ministers and handed to Prince Kung, who would in turn hand them to the Emperor. This was strenuously objected to, for the reason that, although it was not so stated, we suspected (and as it proved rightly so) that when handing the letters to the Emperor the prince would be obliged to kneel. This led to a protracted and animated discussion. We finally proposed as our ultimatum that we would hand out letters to the prince if we could have an assurance that he would stand when handing them to the Emperor; or we would lay the letters on a table placed between us and His Majesty if he would then and there acknowledge their receipt. The latter proposition was finally accepted.

In the programme first submitted it was stated that foreign ministers should, when presented to the Emperor, wear a diplomatic uniform, but without swords.

The impropriety of this was pointed out, and the impossibility of complying with it definitely stated. I said that by the laws of the United States I was prohibited from wearing any kind of uniform; and my colleagues affirmed that a sword was a part and parcel of a diplomatic uniform. The question of uniform was finally erased from the

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programme; it was also left optional with us to make as many or as few salutations as we chose when entering and retiring from the hall.

Touching one question I was situated differently from any of my colleagues. Following the precedent set by my two predecessors, I delivered to Prince Kung my original letter of credence at my first interview with him. The other ministers had delivered copies of their letters only, retaining the originals until an opportunity should be afforded to present them in person to the sovereign.

This difficulty was arranged by the handing back of my letter of credence. I was by this means enabled to present it in due form with the others.

The result attained after four months of wearisome discussion may, I think, be considered satisfactory. It will, I trust, be viewed in the same light by the governments directly concerned.

Speculations as to the future are generally valueless; hence I prefer to let time determine the value of the recent concession. It is too much to expect or hope that that audience of the Emperor will cure all the ills from which foreign intercourse and trade suffer in China. It is, however, an important step in advance—the most important that the Chinese government has ever taken except when compelled by force of arms—and I shall be much disappointed if it does not lead to a marked improvement in relations between the treaty powers and this government.

Trusting that the Department will take a hopeful view of the situation, and that my action in the premises will meet the approval of the President,

I have, &c.,

FREDERICK F. LOW.

[Inclosure 1.—Translation.]

Memorandum of the etiquette to be observed at the audience.

The foreign ministers will bring with them M. Bismarck as their interpreter in common; M. de Geofroy will bring M. Deveria as his interpreter in particular.

The ministers will alight from their chairs or horses at the Fu Hua gate, and they will then be conducted by ministers of the yamên, who will accompany them, in the first instance, to the Shih Ying Kung,* where for a short time they will rest. If His Majesty be pleased to furnish refreshments it is here they will be partaken of.

The escort (foreign) will remain in a tent outside the Fu Hua gate, where there will be persons to attend to them. The retinue (Chinese) will also remain in the same vicinity. Neither escort nor retinue will enter the Fu Hua gate.

As soon as His Majesty, coming from the eastern side of the building, reaches the inner hall of the Tze-Kuang-Ko,† the ministers of the yamên will accompany the foreign ministers and the interpreters to a marquee to the west of the Tze-Kuang-Ko, where they will wait a short time, until His Majesty shall have entered the main hall. The ministers of the yamên will accompany the foreign ministers and the interpreter, M. Bismarck, up the western flight of steps into the Tze Kuang-Ko by the western space.

The speech (or speeches) of the foreign ministers ended, they will each spread his letter of credence upon the yellow table. His Majesty will make some special sign of affability (probably a bow) and will say (literal answer) that the letters of credence have now been received; he will also make gracious remarks and put kindly questions. His Majesty's remarks will be interpreted with solemn reverence by Prince Kung.‡

Foreign ministers, when they enter the hall, when they are speaking or stating their

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* "Palace of Seasonableness," a temple to the Dragon King.

† The violet hall.

‡ By this it is understood that the Emperor will speak in Manchu, and Prince Kung will interpret it in Chinese.

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names, as also when questions are addressed them, and when they reply, will, in token of extraordinary respect, make the usual reverences as proposed.

The forms will be settled by rehearsal before the audience.

When the ceremony is ended, the other four ministers and the interpreter, M. Bismarck, will retire by the western flight of steps. The ministers of the yamên will accompany them to the Shih Ying Kung, where they will wait a short time, M. Devéria being meanwhile brought by the ministers of the yamên into the Tze-Kuang-Ko.

M. de Geofroy will then speak, and spread upon the yellow table the answer to the letter of the Chinese government.*

His Majesty will, as before, acknowledge the receipt of this letter.

The audience being ended, M. de Geofroy and M. Devéria, the interpreter, will retire, the ministers of the yamên accompanying them to the Shih Ying Kung; thence, the whole party being re-assembled, they will conduct the foreign ministers and the interpreters out of the Fu Hua gate.

The arrangements set forth in this paper are made because the Emperor having to receive letters of credence, a decree has been received from His Majesty according an audience.

Hence the liberality of the ceremonial June 26, 1873.

[Inclosure No. 2.]

SIRE: The representatives of Russia, Vlangaly; of the United States of America Low; of Great Britian, Wade; of France, Geofroy, and of the Netherlands, Ferguson, have the honor to offer, in the name of their governments, their congratulations to your Imperial Majesty on your majority, and pray for a long duration of your reign and for the prosperity of your people.

They hope to see in your Majesty's reign the continuation of the reign of your illustrious forefather, Kang-hi, who, while he raised China to the summit of its glory and power, gave free access to western arts and sciences.

China, sire, will return to these happy days under your Majesty's government, and the foreign powers who have concluded treaties with your Imperial Majesty will see with pleasure the development of relations and the strengthening of the friendship that exists with your vast empire.

We have the honor, sire, to lay before you the letters that accredit us as envoys extraordinary and ministers plenipotentiary at your Imperial Majesty's court.

[Inclosure No. 3.]

Memorandum of the reception of foreign ministers by the Emperor of China, 29th June, 1873.

The foreign ministers, provided with letters of credence, having accepted the programme communicated to them by the yamên on the 25th June, it was agreed that each should proceed from his own residence on the morning of the 29th to the Roman Catholic establishment known as the Pei-Tang, where the bishop, Monseigneur de Laplace, had been so good as to provide accommodation for those who might wish to change their dress. The rendezvous was to be at a quarter before six a. m., at which time the minister, Chunghow, was to meet the foreign ministers at the Pei-Tang for the purpose of conducting them to the gate by which they were to enter the palace grounds.

On his arrival the different ministers, each in his chair, and, if he had a foreign escort, attended by his escort, proceeded toward the marble bridge which spans the pei-hai, the lake in the palace grounds. The bridge is, on ordinary days, a thoroughfare, but by the Emperor's desire a barricade had been thrown across the western end of it. This, with a corresponding barricade a little farther to the west, marked off a space right and left of the Fu-Hua-mun, the gate by which the ministers were to be admitted into the palace grounds, in such wise that room was left for the chairs of the ministers and their escort.

Within the gate there were waiting the grand secretary, Wănsiang, and all the other ministers of the tsung li yamên, with the exception of the presidents, Pao-Tsun and Thăn-Kwei-Făn, who, as it had been intimated upon the 26th June they would be, were with Prince Kung in attendance upon the Emperor.

The grand secretary and his colleagues conducted the foreign ministers to the Shih Ying Kung, where they found the Japanese embassador, Soyisima Tranéomi, who had

* The letter addressed by the Emperor of China to the French Emperor in 1870, and sent to France by Chung Hou.

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come from his residence in another part of the city. The Japanese embassador was accompanied by his interpreter. The envoys extraordinary and ministers plenipotentiary of Russia, the United States, England, and France, and the diplomatic agent of the Netherlands, were accompanied by Mr. Bismarck, *sécrétarie interprète* of the German legation, as interpreter of the corps diplomatique. Mr. Devéria, first interpreter of the French legation, accompanied his minister, who, it had been arranged, was to have a second audience for the purpose of delivering the reply of the French government to the letter of explanations carried to France by the minister Chunghow, in 1870, after the massacre of Tien-tsin.

The Shih Ying Kung, or palace of Due Season, is a temple in which prayers are offered by the Emperor for rain or for fair weather, as the case may require. In rear of it are some apartments in which, when about to sacrifice, the Emperor robes and unrobes. Here there were some refreshments from the imperial buttery spread out upon two tables. The foreign ministers seated themselves at these, and, after waiting about an hour and half, were invited to move onward to a large tent pitched on the west side of the Tze-Kwang-Ko, or purple pavilion, the building in which the Emperor had decided to give audience.

Prince Kung, with the ministers Pao and Shĕn, met the foreign ministers outside the tent, in which, it had been understood, they would have to wait a short time before they were summoned to the presence. The interval here, however, as already in the Shih Ying Kung, proved much longer than had been expected. The Prince and his colleagues explained that the Emperor had received important dispatches from the seat of war in the northwest, and that these had detained His Majesty. His highness and his colleagues went and came, apologizing from time to time for the delay. Thus about another hour and half passed away.

At last, a little after nine o'clock, the Japanese embassador and his interpreter were ushered into the pavilion by some of the ministers of the yamên. They returned in a few minutes, and the representatives of western powers were then called for.

Turning to the left as they quitted the tent, the ministers of the yamên conducted them up a low flight of stone steps on the western side of a large platform lying to the south or in front of the pavilion, and, crossing the angle of this platform, they entered the pavilion, as it had been agreed they should, by the space between the first and second columns to the west of the center division of the pavilion. General Vlangaly, minister of Russia, led the way as doyen of the corps diplomatique, and was followed in the order of their seniority by Mr. Low, Mr. Wade, M. de Geofroy, and Mr. Ferguson, respectively, representing the governments of the United States, Great Britain, France, and the Netherlands.

The interior of the pavilion is divided by wooden pillars into five sections, running from north to south. The Emperor was seated on a throne at the northernmost end of the center section. The throne itself stood on a dais or platform raised three or four feet above the floor of the hall, access being gained to it by three small flights of steps, one in the center and the other two right and left of the throne. A light balustrade, broken, of course, by these three flights of steps, ran around the wooden platform. Half way down the hall, at some ten or twelve paces from the throne, and directly opposite to it, stood a long, narrow table, covered with yellow.

Beside the throne were a few princes of the highest order. On the Emperor's left stood Prince Kung, Prince Chun, (known to foreigners as the 7th prince,) and Prince Po, son of the famous Sungolinsin; on the right, Prince Li and another. On either side of the hall, in double rank, were arranged officials, apparently of the first rank. They were placed so that the inner flanks of their line touched the platform below the throne, near its outer angles, the reverse flanks extending outward till they reached the limits of the central division of the hall. In rear of them, on either side of the throne, were other officials in groups, without arrangement.

The foreign ministers having filed across the hall, as they came in front of the throne bowed to the Emperor, then advanced a few paces and bowed again, and finally halting bowed a third time. M. Bismarck, who had followed the ministers in his capacity of interpreter, took his place in rear of the doyen. The grand secretary, probably as the officer charged with the introduction of the ministers, took post slightly in advance of their line, at the same time somewhat to the left of it.

The doyen then read the address appended to this memorandum. M. Bismarck read a Chinese translation of it, and, the reading ended, the foreign ministers laid their letters of credence upon the yellow table, bowing once as before.

As the letters were laid upon the table the Emperor bent slightly forward, as in acknowledgment of their reception, and Prince Kung, falling on his knees, was commanded by His Majesty, in a low voice, to inform the foreign ministers that the letters had been received. The prince rose, descended the steps, and, advancing a short distance toward the ministers, repeated what had been said to him.

His highness then re-ascended the platform, and again falling on his knees was again addressed by the Emperor. On rising he again came down the steps, and coming up this time to the doyen, he said that his Majesty trusted that the emperors, kings, and

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presidents of the states represented were in good health, and hoped that all foreign affairs would be satisfactorily arranged between the tsing-li-yamên and foreign ministers.

This ended the general audience. The French minister, M. de Geofroy, having, as above mentioned, a second letter to deliver from his government, remained, his interpreter, M. Devéria, being introduced as the rest of the ministers withdrew. This they did *à reculons*, and bowing as is usual in other countries.

The whole party, the Japanese embassador included, was in a few minutes re-assembled in the Shih Ying Kung, and after staying there a short time they were conducted to their chairs by the ministers of the yamên present, the grand secretary joining his colleagues as they approached the gate.

A. VLANGALY.
FREDERICK F. LOW.
THOMAS FRANCIS WADE.
L. DE GEOFROY.
J. H. FERGUSON.

No. 80.

Mr. Low to Mr. Fish.

No. 277.] LEGATION OF THE UNITED STATES,
Peking, July 22, 1873. (Received September 19.)

SIR: I have the honor to inclose herewith two letters addressed to me, one by the North China branch of the American Board for Foreign Missions, and the other by the members of the Methodist Episcopal mission in Peking, thanking me for the aid I have been able to render the missionary cause generally, and these two missions particularly.

Heretofore I have refrained from troubling the Department with papers of this nature, nor should I depart from my usual custom now were it not that I understand these papers have already been given to the public through the press.

I have, &c.,

FREDERICK F. LOW.

P. S.—Since writing the foregoing I have received another letter of the same kind, copy of which, together with my reply, are inclosed.

F. F. L.

[Inclosure 1.]

Mr. Chapin to Mr. Low.

PEKING, *May* 6, 1872.

SIR: The members of the North China mission of the American Board, now in session, desire to convey to you their grateful appreciation of the services rendered to the cause of Christian missions in China by the promptness and energy with which you secured redress for violence done to the Rev. Isaac Pierson in December last, by an angry mob in Yu-Cheu.

We cannot refrain from referring also to the more recent and more perplexing difficulty arising out of the renting of a building for public preaching in the southern city of Peking by the American Methodist mission. In this case your firm and just course in defending the rights of the missionaries against the measures employed by unscrupulous Chinese officials to prevent the occupation of the premises acquired in good faith, will, in our opinion, tend to the security of the lives and property of foreigners in China.

At a time when the cause of Christian missions has become so prominent a topic of international discussion, it is to us a reason for thanksgiving that we can feel that the

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representative of the American Government is just to missionaries; is in sympathy with their labors for the elevation of the heathen to the enjoyment of the moral and spiritual blessings of Christian lands, and is willing, within the limits of treaty rights, to protect them in their labors.

With consideration, we have, &c.,

In behalf of the mission—

L. D. CHAPIN,
Chairman.
H. BLODGET,
Secretary.

[Inclosure 2.]

American missionaries to Mr. Low.

Hon. F. F. LOW, Esq.:

DEAR SIR: Having learned that your excellency is about to leave the capital, we, the undersigned members of the Methodist Episcopal mission in North China, deem it a fitting opportunity to give expression to the following sentiments:

First. The deep obligations we are under to your excellency for the prompt, able, and successful vindication of our right to hold chapel premises, lawfully purchased by us, in the southern city of Peking, and that, too, in the face of determined hostility to us on the part of certain influential mandarins.

Second. Our deliberate conviction that the policy which has characterized your excellency's administration, not only in this particular instance, but in connection with every missionary question so far as known to us that has come before your excellency for action, has been marked by a sound judgment, and by the energy and moderation which are wisely designed to promote a harmonious settlement of the somewhat precarious relations now existing between foreigners and natives in China.

We subscribe ourselves your excellency's most obedient servants,

S. N. WHEELER.
H. H. LOWRY.
G. R. DAVIS.
L. W. PILCHER.

PEKING, *April* 2, 1873.

[Inclosure 3.]

American missionaries to Mr. Low.

SIR: The American missionaries resident in Peking desire to express to you on your departure from this city their sense of the ability, discretion, and firmness which has characterized the discharge of your official duties, and they congratulate you, as well on the happy adjustment of many difficult questions in regard to the work of missions, as also on the success which has attended the efforts to secure an audience with the Emperor of China without disturbing the peaceful relations now existing between this and other countries. In all these concessions we believe China to have been not less the gainer than those nations by which the concessions were urged. The mutual benefit of these transactions will be more apparent in the time to come.

In your departure from Peking you carry with you not only our high esteem, but the regards of personal friendship, and our best wishes for your future welfare.

We have, &c.,

H. BLOGET.
JOHN WHERRY.
H. H. LOWRY.
J. L. WHITING.
P. R. HUNT.
L. W. PILCHER.
G. S. J. SCHEREZCHEWSKY.
D. C. McCOY.
D. Z. SHEFFIELD, Tung Cha.
CHAUNCEY GOODRICH, Tung Cha.
HENRY D. PORTER, Tien-tsin.
CHESTER HALCOMB.
W. A. P. MARTIN.

PEKING, *July* 17, 1873.

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[Inclosure 4.]

Mr. Low to the American missionaries.

PEKING, *July* 22, 1873.

GENTLEMEN: I have received your letter of the 17th instant, in which you express in highly complimentary terms your appreciation and approval of my course as the representative of the United States in China.

You refer specially to the adjustment of some difficulties in connection with the missionary interest, and the peaceful and proper settlement of the audience question, as among the more important questions with which it has been my fortune to deal.

In reply, I have to say that as the representative of the United States it has been my constant aim and endeavor to secure to all our citizens, irrespective of their calling or profession, every right which an honest construction of the treaties and the well-settled principles of public law would warrant, at the same time doing what I could to promote a better understanding between the Chinese government and those of the West. To what extent my efforts have been successful I leave for others to judge.

Your letter, coming as it does from those whose residence is in and near the capital, whose opportunities have been and are good for gaining a fairly accurate knowledge of the bearing of the various questions which have come up for discussion, and are therefore able to estimate properly the loss or gain to foreign interests by what I have been able to do, either individually or acting jointly with my colleagues, is to me very gratifying.

That the recent public recognition by the Emperor of China of the equality of western nations will have the effect to improve relations I cannot for a moment doubt. Whether the results will be all that we hope for, or even expect, time alone can determine.

In leaving this city I shall carry with me the remembrance of your unvarying courtesy and kindness, and this recollection will add to my interest in your future welfare and happiness, and the cause to which your lives are dedicated.

I reciprocate most cordially your expressions of personal regard and esteem.

I am, &c.,

FREDERICK F. LOW.

No. 81.

Mr. Bailey to Mr. Davis.

No. 207.] UNITED STATES CONSULATE,
Hong-Kong, September 12, 1873. (Received Oct. 23.)

SIR: Referring to my 197, relating to the Macao coolie trade and the connection of Hong-Kong therewith, I have the honor to inclose an article, marked No. 1, from the China Mail of September 1, regarding "the expulsion of the coolie-ships" from Hong-Kong. The article is couched in the spirit of a *jubilate Deo* at the final expulsion of all coolie-ships from the harbors of this colony.

On Monday, August 24, in obedience to an official notification from the colonial government, seven coolie-ships then in the harbor, being repaired, fitted, and supplied for the Macao traffic, were compelled to lift their anchors and put to sea. At the close of that day not a coolie-ship remained in the waters of the colony, and none have presumed to enter since.

Most of these ships moved direct to Whampoa, within Chinese territory, only twelve miles from Canton, where foreign docks, chiefly owned by Hong-Kong residents, exist for the repair of vessels. But the sequel proves, as will be seen by an extract, marked No. 2, from the China Mail of September 9, and one from the Hong-Kong Times of September 11, that the cordon of international reprobation is closing inexorably around the doomed traffic. The Chinese authorities have forbidden the Macao coolie-ships from resorting to Whampoa, and have warned those now

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there to leave forthwith. I would respectfully suggest whether the state of affairs is not now ripe for a final blow to be given by the United States and Great Britain, joining in an identical protest to Portugal, for the total suppression of the traffic, and thus end it forever. This would seem to be the supreme juncture for such a movement, to be supplemented by those two governments with a cordial support of China in strong repressive measures.

It is a well-known historical fact that the tenure of Portugal's sovereignty to Macao rests upon a most flimsy basis. I quote from Denny's "Treaty Ports of China and Japan"—Trübner & Co., London, 1867—the following summary: "It will .thus be seen that the claim on the part of Portugal to consider Macao as an integral portion of the dominions of the crown rests on no better foundation than the permission granted by the provincial mandarins to certain Portuguese subjects to settle on this site. It is absurd to suppose that the jealous government of China, in the plenitude of its power, would voluntarily cede any portion of its territory to a foreign sovereign; and the rule of Portugal at Macao can, therefore, remain absolute only so long as it rests unchallenged by the Chinese government."

With a vigorous protest to Portugal, keeping the question of her title to Macao in front of the discussion, would it not seem to be potential in bringing her to an attitude demanded by justice and humanity?

When the late Mr. Seward came to Hong-Kong in the winter of 1870–'71, he had several conversations with Chief Justice Smale relative to the Macao coolie-trade, a subject at that time paramount, absorbing all minor topics, and, therefore, eagerly discussed in all circles. Knowing the great weight and authority of Mr. Seward's views at home and abroad, and he having been here within the very atmosphere tainted with the traffic, I take the liberty of giving the substance of those conversations as I have gathered it from various sources. Mr. Seward said, "He had studied the character of the Macao coolie-trade, and held it to be essentially a trade in slaves, aggravated by the fact that the slave of the Macao trade was a man of intellect and cultivation, to whom servitude is the more galling. He therefore felt that its destruction was a duty devolving on England and America.

He had studied the history of the occupation of Macao by Portugal, and agreed generally in the narrative of Portuguese usurpations contained in "The Treaty Ports of China and Japan;" and he held this view of the want of title in Portugal to sovereignty over Macao was a defect of which America and England ought to take advantage as a means of coercing Portugal into observance of the requisitions of China as to emigration, so that no Chinese subjects should be kidnapped from China and removed to Macao, to be thence forced into coolie-ships, the patent fact being that the small peninsula of Macao would not, out of its small Chinese population, furnish a hundred Chinese coolies a year to emigrant ships.

He was very emphatic in his opinion that it was the duty of America and England to join in an identical protest to Portugal, and to enforce that protest by making Portugal feel all the evil consequences of unfriendly relations with her two best friends as the result of non-compliance with the requisitions of civilization and humanity; even to the extent of not interfering in case China should claim her own again in Macao.

He spoke in warm language of what he hoped would be the benefit to civilization of united action by America and England.

But his views on this subject do not rest alone on unrecorded conver-

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sations. In his book of "Travels around the World," on page 275, written at Hong-Kong, speaking of the Macao system, he says: "The system of abduction prevailing there is an abomination scarcely less execrable than the African slave-trade. The emigrants are promiscuously taken by fraud and force; ignorant of their destination, without security for their labor or their freedom, they are hurried on board 'sailing-crafts.'"

If it is possible to suppose that further evidence is required to show that the Macao coolie-trade is in reality the slave-trade, I inclose a statement, marked No. 3, made by Mr. J. B. Steere, an American gentleman engaged in scientific pursuits, sent out by the president and board of regents of the University of Michigan to make collections in natural history, &c., &c. Mr. Steere has recently arrived in China from Peru, where he has spent three years in traversing that country in many directions. He is a keen observer, and his letters from Professor Henry, of the Smithsonian Institute, Governor Baldwin, of Michigan, and others, leave no question as to his high character and learning.

Mr. Steere's statement is so clear and unequivocal that it needs no commentary by me to show that the Macao coolie in Peru is in the bonds of a slavery more galling than the African slave; and the only wonder is that the nations do not wipe out in a day the power to do evil in the petty *quasi* colony from whence alone springs all this woe.

I have, &c.,

DAVID H. BAILEY.

[Inclosure 1.]

From the China Mail.

HONG-KONG, *Monday, September* 1, 1873.

THE EXPULSION OF THE COOLIE-SHIPS.

Nothing affords more ground for reflection to the thoughtful observer than the manner in which certain gigantic abuses, apparently rooted as firmly as abuses can ever be, have sometimes disappeared, with a rapidity quite unexpected, before the march of events, as a snow-wreath vanishes at the touch of the first warm wind. All but the very young of the present generation must remember the hopeless feeling with which, from ten to fifteen years ago, they regarded such subjects as slavery in America, the subjugated and divided condition of Italy, or serfdom in Russia. Dark as the night was, there were no signs that it was the darkness of the hour before the dawn. The cry "How long?" had gone up until men had almost ceased to hope for change, or to believe in its possibility. It was to be expected that such abuses would die hard; but there seemed little chance of their dying at all. And yet, ere two decades have passed, the very abuses we have cited are almost forgotten by the rising generation, which has, in its turn, its own foes to grapple with.

Only one year ago a person who had seriously said, in any average Hong-Kong company, that Macao coolie-ships would not on this date be tolerated in the waters of the colony, would have been looked upon much in the same way as a fanciful enthusiast who had proposed to revive protection and re-enact the laws against regrating. Half a score of the soundest, most practical, and most utterly conclusive arguments would have been sprung on him, not a few based on the alleged impossibility of excluding coolie ships—some on the amount of money involved in the trade, which would effectually bar the way against legislation; but the most approved reply would have been that he was talking simple nonsense, and there the matter would have dropped. And yet, within so few months, we find coolie-ships quietly turned out of this harbor. At the moment we write there is not one within its limits, and we hope there never again will be one. And this, too, in spite of the somewhat large special interests involved, with a sufficient public approval which cannot be mistaken. Those who, a few months ago, ventured absolutely to defend the coolie traffic are prudently silent; those who

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upheld it on the score of those fallacious general considerations which have so often been set up against practical reforms, have forgotten to philosophize; and even those who are out of pocket seemed disinclined to cry out.

Is it too much to hope—are we over-sanguine for venturing to believe—that the collapse and overthrow of this objectionable traffic are as unexpectedly near as has been the expulsion of its vessels from Hong-Kong? Ten years hence will the Macao trade be a tale that old residents of China will tell to youngsters? Three years hence will it not be forgotten, as the events of three years ago are forgotten in China only? We devoutly hope that it may, and are not without reason for our hope. The Chinese are drawing their lines closer and closer around Macao. Many of the native crimps and kidnappers have suffered the punishment—more deserved by their employers—of decapitation. The crimp who has decoyed hundreds to semi-slavery, or worse, now finds his own wretched and worthless life in danger. We are informed from trustworthy sources that coolies are not to be had for money, and they are certainly not likely to come for love. This action on the part of the Chinese authorities is a welcome sign that they are waking up, or are being stirred up, to a sense of their responsibilities in the matter. We do not hesitate to say that, putting aside all questions of humanity, for the mere sake of foreign interests, amicable relations with and progress in China, the treaty powers ought to strain every nerve to induce a healthy action by the Chinese in this matter. No means of influencing public opinion, either here or at home, should be left untried. A huge abuse like the Macao coolie-trade yields only to an accumulated avalanche of reprobation. Every right-thinking person should consider what responsibility rests upon him, even in his conversation, to see that he is helping the world forward and not backward.

If the Chinese can only be induced to shut coolie-ships out from Whampoa and the coast ports, the end of the trade cannot be far off. At the same time we would suggest that establishments which repair these vessels at Whampoa incur a very grave responsibility. The impossibility of finding a dock will do more to stop the trade than any other outside influence short of the display of force, which, although we should by no means object to see it exerted, will, we hope, not be necessitated. We have heard a good deal of a dock at Macao. Such a dock will be a monument of disgrace to the Chinese if it ever is completed. The Chinese should put an absolute veto on such an undertaking, and every treaty power should use its utmost influence to induce them to do so. Macao is in Chinese eyes no more legally Portuguese soil than Peking is, and its inhabitants are held to have no more right to make a dock at the one place than at the other. It is only within a very few years that they have ventured to think of building anything there without Chinese permission, and the Chinese naturally believe that the sooner they resume that lordship of the soil of which they have temporarily allowed themselves to be deprived, the better.

No doubt it would be at least impolite to adopt this tone had Macao justified its actual status as a foreign city. But she has not. There is no blinking the fact that for years past she has knowingly connived, under cover of unobjectionably worded regulations, at a system fraught with all that is bad, and she cannot therefore feel surprised if those who protest against the acts she indorses adduce the very mortifying argument that she not merely has no international status, but that she declines to attain it lest it should compel the cessation of a traffic from which she derives her chief revenue. It cannot be doubted that after the Fatchoy scandal, Mauritius, the Cape, and all other English ports will be closed to vessels employed on a similar voyage. Under these disadvantages, here and elsewhere, it is not easy to see how the organized involuntary emigration from Macao is to be carried on. It is also to be hoped that France, Italy, Belgium, and any other European powers that have not yet perceived the disgrace of being associated with Spain and Peru in this detestable traffic, will speedily quit such questionable company, and forbid their subjects and vessels to engage in the lucrative but sentimentally objectionable pursuit of man-stealing. It is curious to note that the heaviest blow yet struck at the traffic should emanate from a Hong-Kong government.

[Inclosure 2.]

Extract from the China Mail, September 9.

We learn on good authority that the Chinese government has resolved to henceforth forbid Macao coolie-ships from resorting to Whampoa, and that those there on Saturday last have been warned by the acting commissioner of customs to leave forthwith. Thus the last blow is struck at what may be termed the outside assistance hitherto rendered to the trade, and Macao will henceforth have to depend upon her own resources to prosecute it. It is not impossible that the total extinction of the trade will shortly follow. By way of a beginning, Chinese have intimated that the reception of the Peruvian minister at Peking "will not be favorable."

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Extract from the Hong-Kong Times, September 11.

THE COOLIE VESSELS AT WHAMPOA.

The following courteous "notice to quit" was served on all the captains of Peruvian coolie-ships lying in Whampoa on Saturday. The last of them was beating down the second bar yesterday *en route* for Macao, which is now the center of the obnoxious trade and their only resort. What will be the next step to be taken by the Chinese government? The better class of the Macao Portuguese seem to have foreseen it, in a future not very distant, for a telegram to that effect was sent to Lisbon on Tuesday through the Great Northern Telegraph Company. The days of the coolie traffic are doomed, and we shall quietly wait and note the issue of events:

"CANTON, *September* 6, 1873.

"SIR: I have to acquaint you that instructions have been received from H. E. Viceroy, through the superintendent of trade, ordering that you will leave this port and the adjacent waters at once with the vessel which you are the master of. Your ship's paper will be handed to you by the tide-surveyor at Whampoa, who will take your receipt for the same. At the same time I have to notify you that no vessel being destined for the carriage of Chinese coolies and belonging to non-treaty power will in future be allowed to enter this port.

"I am, sir, your obedient servant,

"H. O. BROWN."

[Inclosure.]

Mr. Steere to Mr. Bailey.

DEAR SIR: At your request I send you the result of my observations upon Chinese labor in Peru. I entered Peru from the Amazon, crossing the mountains through Chachapoyas and Cajamarca, reaching the Pacific coast at Malabugo, near Trujillo. I afterward visited much of the northern part of Peru, including the towns of Trujillo, San Pedro, Pacasmayo, &c. I also went east of Lima upon the line of the Owga Railroad, reaching the vicinity of Yuli, and made some short excursions through the country immediately about Lima.

The coast country of Peru, that part lying between the Cordilleras and the Pacific, is rainless, but was highly cultivated by the people who possessed it before the Spanish conquest, as is still apparent from the frequent remains of terraces and ditches for irrigation. Community of labor was required to keep these immense works in repair, and when the system was interfered with by the Spaniards, and the laborers sent to the mines, the whole country soon became a desert, the few remaining Indians going into the mountains, where the soil, though less productive, is watered by the rains. With few exceptions this coast country is still a desert of drifting sand, though immediately becoming fertile by irrigation. It is to cultivate these lands that Chinese laborers have been imported, there being but a few hundred upon the Guano Islands, and none that I have seen or heard of in the mines. Coolie labor was first employed to any great extent in Peru during the war of secession in the United States, and it was used in the cultivation of cotton. At the close of the war the Peruvian growers could not compete with the United States, and the cotton-fields were to a great extent abandoned, the dry bushes often still standing on lands that have again gone back to desert. At this time it was found that the Chinese could be profitably employed in raising sugar-cane, and the importation was kept up. The cultivation of sugar-cane is steadily increasing, and new estates are being continually opened, and the best of sugar machinery imported from the United States and England. Many of the estates are very large, some employing as many as a thousand coolies each. The proprietors are in many cases English and German, and foreigners are generally employed as engineers, &c.

The number of Chinese in Peru is variously estimated by the Peruvians themselves at from eighty thousand to one hundred and fifty thousand.

Twenty-five ships, mostly of American build, but under the Peruvian flag, are engaged in the trade, and these carry from five to nine hundred each, and, when coolies are plenty, can make about two voyages a year. The ship in which I made the voyage from Callao to China was of thirteen hundred tons burden, and her hold was fitted up with bunks for eight hundred Chinese. There were two tiers of platforms, one above the other, running entirely around the vessel, and upon them were numbered, in Chinese and Arabic, the space allotted each man, which was something less than two feet

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in width and five in length. There was also a double tier of the same running down the center of the ship, leaving a narrow passage on each side between the bunks. The voyage from Callao to China is made in from sixty to seventy days, but the return-trip is generally over a hundred, as the winds are contrary.

The coolies are taken at Macao under contract to serve eight years, receiving food and clothing and four dollars per month. Before their arrival in Callao their cues are cut off, and they are dressed in suits of nankin cotton, and are ready for sale. Those who wish to buy coolies go on board and select those they want, paying about $400 each, and receiving the contracts as evidence of ownership. They are then taken to the estates, and are to all intents and purposes slaves for the term of eight years, and whether they receive their four dollars per month and are liberated at the end of their term of service depends wholly upon the honor and honesty of the owner, for the estates are far apart, and roads, mails, or other means of communication are rare.

There are no special means of correcting the evils of this system, and the coolie seldom or never appears before the courts of the country. When they try to escape they are hunted down, and men are continually scouring the country in this business. They are bought and sold like other property, the transferring of the contract being proof of sale.

I noticed especially the miserable appearace of those upon the estates; they were poorly clothed, were very thin in flesh, and looked despondent and despairing as if they did not care whether they lived or died. This appearance is likely produced by insufficient food and clothing, as those I saw at work upon the railroads being built by Mr. Henry Meiggs, who receive the same rations as the other laborers, appeared robust and contented.

Those who oversee them at their work often carry heavy whips, which they use in hurrying the slow and indolent. The stocks and irons are frequently used in their punishment, and I saw at one estate between thirty and forty come up from their work heavily ironed, and holding up their chains with one hand to keep them from galling their ankles, while they carried their spades, with which they had been at work, with the other. The owner of the estate told us that they had attempted to run away. There are stories circulated in the country of Chinese being burned at the stake, and some of them may well be true, judging from the late occurrences in Lima, where the dictator, Colonel Gutierrez, and his brother were hanged naked to the towers of the cathedral, and then cut down and allowed to fall sixty or seventy feet to the stone pavement below, and afterward burned in the public plaza. Crimes committed by the coolies are generally punished by their owners, as they are too valuable to pass their time in the public prisons. This is even the case with murder, the penalty for this crime, when the victim is also a coolie, being that the murderer shall work out the term of service of his victim, added to his own.

The mortality among the Chinese is very great, and I have heard it estimated that less than a third live out their term of service, though there is no means of ascertaining the exact truth. It is true that every estate has a Chinese burial-place, which is thickly covered with little heaps, each marking the spot where a Chinaman lies a few inches under the sand without shroud or coffin.

Suicide is very frequent among them, and this often by hanging. Small trees about the buildings upon the estates were often shown me that had borne many fruits of this kind. The laborer in Peru is compelled to pay his debts in labor, and as long as he can be kept in debt he cannot leave the service of his master. This system has made a great part of the Indians of Peru serfs or peons. At the end of the Chinaman's term of service, if this is not prolonged by the owner, by keeping him in debt and in bondage until death, he generally makes his way to the town and hires out as cook, and after making a little money he opens a small eating-house or fonda, where the improvident people of the country find it easier to buy their food than to cook it themselves. When the Chinaman has made a few hundred dollars in this way he returns home. The vessel in which I came from Calloa to China brought eleven, all of them apparently broken in health and going home to die, though one of them was said to have with him about $25,000. Ten or twelve Chinamen seem to be about the average number who return upon ships that take out from six to nine hundred, though a few may make their way back by way of California.

There is a feeling of insecurity in Peru from the presence of this great number of desperate men, who have no ties to bind them with the people of the country or to keep them from taking vengeance in case of insurrection. Every one goes armed, and every farm-house is a little armory. There have already been some instances of the coolies rising and murdering all the Peruvians they met with, and in one case at least the military had to be sent to quell them, but as yet there has been no combined action among them.

With respect,

J. B. STEERE.

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No. 82.

Mr. Davis to Mr. Low.

No. 150.] DEPARTMENT OF STATE,
Washington, September 18, 1873.

SIR: I have to acknowledge the receipt of your dispatch of the 10th of July last, No. 271, in which you give an account of the reception by the Emperor of China of the foreign diplomatic representatives at Peking, and in reply to inform you that it is deemed to be a very satisfactory termination and arrangement of a long-standing difficulty.

At the same time I have to state that your action in connection therewith has been discreet and firm, and is deserving of commendation.

I am, &c.,

J. C. B. DAVIS,
Acting Secretary.

IX.—COSTA RICA.

No. 83.

Mr. Blair to Mr. Fish.

[Extract.]

No. 151.] LEGATION OF THE UNITED STATES,
San José, Costa Rica, May 12, 1873. (Received June 9.)

SIR: The annual meeting of Congress took place on the first instant.

The President's message was read by the secretary of foreign affairs.

Its unusual length, I hope, will be deemed a sufficient excuse for not inclosing a translation of the same.

The leading points of the message are as follows:

The President commences by stating that the nation is at peace with all foreign powers. He then alludes to the boundary question between Nicaragua and Costa Rica; would greatly prefer to have the question settled amicably, but that Costa Rica cannot, in justice to itself, cede any part of its territory to Nicaragua.

He then refers to the boundary question between the United States of Colombia and Costa Rica, and says that the difficulty has been amicably settled.

He alludes to the arrival of a minister from Guatemala to obtain the ratification of the treaty of December, 1871, and his recall, he not having the necessary powers to act in the premises.

He next refers to the peaceful state of the country; his visit to Europe; expresses the hope that ere long Costa Rica will take a distinguished place among the great nations he visited, and looks forward to the day when the Central American States will be merged into one grand republic.

He alludes to the stability of the national credit abroad, owing to the punctuality with which the nation meets its obligations; states that the revenue of the country has doubled itself in direct proportion to the increase of commerce, and that the population is fast increasing. He compares the net proceeds of the national revenue of 1869, seven hundred and eighty-three thousand dollars, against those of the past

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year, viz, one million six hundred and sixty-four thousand dollars, or more than double; that the total revenue in 1870 was two millions five hundred and eighteen thousand dollars, or eight hundred and fifty thousand dollars more than the previous year, and one million seven hundred and thirty-five thousand dollars more than in 1869, and avers that, in the coming year, the revenue will exceed three millions of dollars. The President then puts the question, if the revenue of the country has increased so rapidly during the construction of the railroad, what will it be when that work is accomplished?

He then refers to what he terms the late "supposed" monetary crisis in this country, attributes the cause to the suspending of credits in a private bank; but states that it had been dispelled by the protective influence of the government.

The President then refers to the construction of the railway to the Atlantic, and is sanguine of its completion; refers to the report of a commission appointed by the government to examine it and report progress.

Such, in brief, is the substance of the document that forms the subject of this dispatch.

I am inclined to the opinion that it will be more valued without than within the country.

Many statements of the President appear to me too highly colored—particularly is this the case when he speaks of the credit of the nation abroad and its present financial condition.

I will reserve, for another occasion, to give the Department an accurate and full statement of the political and financial condition of the country.

* * * * * * * *

I have, &c.,

JACOB B. BLAIR.

No. 84.

Mr. Blair to Mr. Fish.

No. 153.] LEGATION OF THE UNITED STATES,
SAN JOSÉ, COSTA RICA, *June* 23, 1873. (Rec'd July 26.)

SIR: Inasmuch as the sands of my official existence are fast running out, and this legation will soon cease to exist by operation of law, I deem it appropriate to review, briefly, the political and financial history of Costa Rica during the four years and eight months, the period I have had the honor to represent the United States as minister resident to this republic.

I arrived here on the 2d day of October, 1868, and presented my credentials on the 6th of the same month. I found the executive chair of the republic occupied by Señor Doctor Don José Maria Castro, a gentleman of fine personal appearance, agreeable manners, intelligent, and whose administration gave the most conclusive proof that the President regarded the freedom of speech and press as not only the essence, but necessary to the existence of a republican government.

Notwithstanding the people were in the full enjoyment of these

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inestimable privileges, and the country prospering to perhaps a greater extent than under any former administration, within one month after my arrival a revolution occurred, resulting in the removal of President Castro from office, and placing Jesus Jimenez in the executive chair as provisional president. The constitution being abrogated by reason of the revolution, President Jimenez continued to act as provisional president, untrammeled by any constitutional restrictions, until a new constitution was formed, and a President elected under its provisions, which occurred in the month of March following, when President Jimenez was duly elected President of the republic for the term of three years from the 8th day of May, 1869, at which time he was duly installed into office. In less than thirty days from his inauguration, the President of the republic found arrayed against his administration, both in and out of Congress, a most formidable party, and realizing that "power is a heavy burden" he tendered his resignation, which Congress refused to accept. He then asked Cohgress to clothe him with "full powers," to which Congress acceded. The granting of full powers simply means the folding up of the constitution for a given period, until the President can rid himself of all opposition to his administration by banishing his enemies from the country.

President Jimenez remained in office until 27th of April, 1871, when he was relieved from the burden of official life by a second revolution, which made Señor Dr. Don Bruno Carranzo provisional President of the republic.

President Carranzo served his country faithfully for a period of a little over ninety days, when, not taking a hopeful view of the situation, he laid down his robes of office at the feet of Congress, and retired into private life. Congress at once elected as provisional President General Thomas Guardia, the hero of the last revolution. A convention was soon called to form a new constitution, and under its provisions an election was held, and General Thomas Guardia elected President of the republic. He was inaugurated on the 8th of May, 1872. His term of office will constitutionally expire May the 8th, 1876.

Almost the first official act President Guardia performed was to enter into a contract on behalf of the government with Mr. Henry Meiggs, a citizen of the United States, but who now, and for several years has been, a resident of Peru, to construct a railroad from Port Lemon, on the Atlantic, to the city of Alagula, a point about fifty miles distant from the Pacific Ocean, passing through the cities of Cartago, San José, and Heredia, the estimated distance being one hundred and twenty-nine miles.

By the terms of the contract the government agrees to pay Mr. Meiggs the sum of eight millions six hundred thousand dollars to construct said road, furnish it with all necessary rolling stock, and erect buildings for depots, &c. The road to be finished December, 1874.

The work has been prosecuted with commendable energy; still there is little hope of its being completed in contract time. At Port Lemon end about fifteen miles are nearly completed. In the interior fifteen miles may be said to be finished and twenty miles more graded. By far the most difficult and expensive part of the line remains untouched.

The question whether Mr. Meiggs will fully comply with his part of the contract does not seem to be the problem the most thoughtful are trying to solve. It is this: Will the government be able to negotiate a loan sufficient to enable it to comply with its part of the contract? For it is reasonable to suppose that if the government should fail to pay, Mr. Meiggs will cease to work. I think it will. The government has

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already obtained loans to the amount of seventeen millions of dollars, realizing therefrom about $9,000,000. This sum would be sufficient to enable the government to meet its engagement with Mr. Meiggs but for the fact that the government is compelled to draw from this fund an amount necessary to cover the amount of the interest borrowed, and two per cent., which is set apart as a sinking fund.

I feel confident a further loan of at least five millions of dollars will be required to meet the demands upon the government during the construction of the railway. The debt of the country will then stand as follows:

Amount of loans for railway purposes	$22,000,000
Domestic loan	300,000
Debt to Peru	100,000
Total	22,400,000
The estimated income of the country, as per official statement for the fiscal year 1873–'74, is	$2,850,000
Expenses, including interest on foreign loans	2,350,000
Leaving a surplus of	500,000

But it is proper that I should state that the estimate of the income of the present fiscal year is greater than last year by $648,000, and greater than the previous year by $1,034,000.

It is difficult to see how a country embracing an area of only 5,700 square miles, with a population not exceeding 170,000 inhabitants, the exports of which are confined almost exclusively to one single article, coffee, can liquidate such an enormous debt as Costa Rica is contracting. The thing at my stand-point is utterly impossible, and in a few years more Costa Rica, like Venezuela, Honduras, and other Central and South American States, will be literally bankrupt.

It is now generally conceded that Mr. Meiggs will not be able to construct the railway for the sum stipulated in his contract with the government by over a million of dollars, and it is also clearly understood that he has, by some private arrangement with the government, been released from all responsibility or loss in the event the sum stated in the contract proves insufficient to construct the railway. Rumor has it that he performed this diplomatic feat by assigning, with consent of this government, the contract to Mr. Henry Meiggs Keith, a relative of Mr. Meiggs, but a man of no responsibility whatever.

Should this impression prove true, and I fear it will, Costa Rica will indeed be in an unenviable condition. The country at present is tranquil, and the indications are that peace, with its innumerable blessings, will be enjoyed by the people of Costa Rica for years to come. But it is well to remember, as it is peculiarly applicable to these Central American States, the truthful saying, that no one can tell what a day may bring forth.

I have, &c.

JACOB B. BLAIR.

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X.—DENMARK.

No. 85.

Mr. Cramer to Mr. Fish.

No. 144.] LEGATION OF THE UNITED STATES,
Copenhagen, October 23, 1872. (Received November 7.)

SIR: I have the honor to report that the question concerning the introduction into the three Scandinavian kingdoms, Denmark, Sweden, and Norway, of a common system of coinage, based upon a gold standard, has for months been discussed by the Scandinavian press as well as by writers on political economy. This discussion was occasioned no doubt by the adoption last year by the German Parliament of a new gold standard for the German Empire, and it has ever since been felt here that a corresponding change in the money system of the Scandinavian North had become an absolute necessity.

As a first step toward the attainment of this object, the King of Denmark appointed, on the first of last June, a commission to take this subject, as far as Denmark was concerned, into consideration, and to report thereon. It so happened that the Scandinavian congress of political or national economy, which held its sessions in this city during the month of July last, in connection with the northern exposition of industry and art, among other things unanimously adopted a resolution recommending, first, the introduction into the three Scandinavian kingdoms of a uniform money system, based upon a common gold standard; and, second, the appointment of a joint commission to consider and report upon this subject. With a laudable dispatch, the respective governments of the three Scandinavian kingdoms acted upon this suggestion, and appointed such a joint commission, consisting of three members from each kingdom. On the 26th of last August the said joint commission met in this city and commenced their work. On the 20th of the following September they terminated the same, and embodied the results of their deliberations in a somewhat lengthy report, which has recently been published in the Danish language in one of the city papers. I inclose herewith a translation of the substance of it, marked A.

This report has now been laid before the governments of Denmark, Sweden, and Norway. The King of Denmark has already caused his government to take steps which look toward the conclusion of a convention with the governments of Sweden and Norway in relation to the adoption of and carrying out, conjointly, the stipulations of the said report. The fact that the joint commission adopted it unanimously furnishes a reason for the hope that Sweden and Norway will join Denmark in adopting and carrying it into practice.

As another evidence that the King of Denmark is in earnest about this matter, it may be mentioned that he has recently granted permission to the National Bank of Copenhagen to exchange its silver bullion, so far as it consists in ingots, for gold bullion of a similar character, being the reserve of uncoined precious metal required by law to be kept on hand as a security for its issue of notes.

It will be seen from the said report that it does not propose to adopt any one of the money standards already in existence in Europe, but an entirely new one; thus, like the new money system adopted last year

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by the German Parliament, putting a new obstacle in the way of attaining to a common international money system, an object the attainment of which is so much to be desired.

I have, &c.,

M. J. CRAMER.

[Inclosure.]

Translation of the substance of the report of the Scandinavian joint commission appointed to consider the feasibility of introducing into the three Scandinavian kingdoms a new money system.

1. The three Scandinavian kingdoms shall adopt gold as the basis of a common money system, with the use of silver and other metals for smaller coins.

2. The principal common coin shall be called gold crown, and another of twice its value, double crown. Of a kilogram of fine gold shall be coined 248 pieces of gold crowns, or 124 pieces of double crowns. The common unit for calculation shall be a crown dollar, which shall be one-tenth of a gold crown. A crown dollar shall be divided into or shall contain 100 öre.*

3. Gold coins shall be coined of an alloy containing 90 parts in weight of fine gold, and 10 parts in weight of copper. A gold crown shall weigh 4.4803 grams, and a double crown 8.9606 grams. The diameter of a gold crown shall be 19 millimeters, and that of a double crown 24 millimeters.

4. Smaller coins shall be coined partly of silver and partly of bronze; the latter to consist of 95 parts of copper, 4 parts of tin, and 1 part of zinc.

5. Of silver coins may be coined the following-named pieces, each of which shall contain the size, weight, and fineness as fixed in the following statement:

A silver coin representing the value of—	Diameter in millimeters.	Gross weight in grams.	Grams of fine gold.
(*a.*) 4 crown dollars shall contain	39	30	24
(*b.*) 2 crown dollars shall contain	31	15	12
(*c.*) 1 crown dollar shall contain	25	7.5	6
(*d.*) 50 öre shall contain	22	5	3
(*e.*) 40 öre shall contain	20	4	2.4
(*f.*) 25 öre shall contain	18	3	1.5
(*g.*) 10 öre shall contain	16	2	0.6

6. Of bronze coins may be coined the following-named pieces, each of which shall contain the size and weight as fixed in the following statement:

A bronze coin representing the value of—	Diameter in millimeters.	Of a kilogram of bronze shall be coined the following number of pieces:
(*a.*) 5 öre shall contain	27	125
(*b.*) 2 öre shall contain	21	250
(*c.*) 1 öre shall contain	17	500

* "Öre" is an old northern designation for a small coin still in use in some parts of Scandinavia, and its value is about one-fourth of one cent.

M. J. C.

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7. In so far as perfect exactness as to weight and fineness in the coin pieces of each denomination cannot be obtained, the deviation from the fixed standard, either above or below it, shall not exceed the following quantity:

Denomination.	In relation to—		
	Weight or when adjusted.		Fineness of the weight of the coin piece.
	By the piece.	By kilograms.	
For gold coins	0.0025		0.002
A 4-crown dollar piece	0.003		
A 2-crown dollar piece	0.004		
A 1-crown dollar piece	0.005		
A 50-öre piece		0.005	0.003
A 40-öre piece			
A 25-öre piece		0.010	
A 10-öre piece		0.015	

The same standard gold and standard silver shall form the basis for assays at the mint of each of the three kingdoms.

8. All coins shall be coined with a raised border. Gold and silver coins, excepting twenty-five and ten öre pieces, shall have a dented or rifled circumference. The superscription upon a gold crown shall show that it is a gold crown; that of a double crown that it is a double crown, and each shall also show the number of crown dollars it contains, and in which kingdom it was coined.

9. All coins coined in accordance with the above regulations, in the mints of the three kingdoms, shall be lawful money, and shall be taken at their stipulated value in payment of debts between man and man, and of taxes and duties due to the governments of the three kingdoms. Yet none shall be obliged to receive in any one payment a higher number than twenty crown dollars, in one, two, and four crown dollar pieces, or more than five crown dollars in smaller silver coins, or more than one crown dollar in bronze coins.

10. When gold coins have, through use, lost one-half per cent. of the weight specified in article 3, they shall cease to be lawful money between man and man, but shall be taken at their full value by the treasury of each kingdom. Smaller coins, whose superscriptions have become illegible by use, shall also be taken at their full value by such treasury, if it can be determined in what kingdom they were coined.

The remainder of the report contains a few stipulations to the effect that, in case it shall be adopted by the three kingdoms, and the governments of these kingdoms shall pass any laws in relation to the further regulation of this new money system, each government having passed such laws shall communicate them to the governments of the other two kingdoms, &c., &c.

No. 86.

Mr. Cramer to Mr. Fish.

No. 159.] LEGATION OF THE UNITED STATES,
Copenhagen, December 28, 1872. (Received January 16, 1873.)

SIR: I have the honor to inform you that, on the 18th instant, at Stockholm, a convention was concluded and signed by the duly-empowered plenipotentiaries of the three Scandinavian kingdoms, Sweden, Norway, and Denmark, in regard to the adoption and introduction of a common money system based upon a common gold standard. The full text of this convention was published yesterday in the semi-official paper of this city. The convention itself has not yet been ratified, but it is supposed that it will be done very soon.

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I herewith inclose a translation of the substance of the said convention, marked "A," also a copy of the paper containing the Danish text thereof, marked "B."

I have, &c.,

M. J. CRAMER.

[Inclosure "A."]

Substance of a convention concluded and signed at Stockholm on the 18th of December, 1872, between the duly empowered plenipotentiaries of the kingdoms of Sweden, Norway, and Denmark, in regard to the introduction of a common system of coinage into the three northern kingdoms.

ARTICLE I.

The three northern kingdoms adopt gold as the basis of a common system of coinage, with the use of silver and metal of a less value for smaller coins.

ARTICLE II.

For the three kingdoms there shall be two main coins: the first shall be coined in such a manner that 248 pieces shall contain 1 kilogram of fine gold; the second, so that 124 pieces shall contain 1 kilogram of fine gold. The tenth part of the first main coin, or the twentieth part of the last named, shall be the common unit of calculation, and shall be called a crown. A crown is divided into 100 öre.

ARTICLE III.

Gold coins shall be coined of an alloy consisting in weight, respectively, of 90 parts of fine gold and 10 parts of copper.

The gold coin containing 10 crowns shall weigh 4.4803 grams, and that containing 20 crowns shall weigh 8.9606 grams.

The diameter of a 10-crown piece shall be 18 millimeters, and that of a 20-crown piece 23 millimeters.

ARTICLE IV.

Smaller coins shall be coined partly of silver, with an alloy of copper as indicated in Article V; partly of bronze, containing 95 parts of copper, 4 parts of tin, and 1 part of zinc.

ARTICLE V.

Of silver coins may be coined the following-named pieces, of the size, weight, and fineness indicated as follows:

	Diameter.	Net weight.	Contents of fine silver.
	Millimeters.	*Grams.*	*Grams.*
(*a.*) 1 piece representing the value of 2 crowns	31	15.00	12.000
(*b.*) 1 piece representing the value of 1 crown	25	7.50	6.000
(*c.*) 1 piece representing the value of 50 öre	22	5.00	3.000
(*d.*) 1 piece representing the value of 40 öre	20	4.00	2.400
(*e.*) 1 piece representing the value of 25 öre	17	2.42	1.452
(*f.*) 1 piece representing the value of 10 öre	15	1.45	0.580

ARTICLE VI.

Of bronze coins may be coined the following pieces, which shall contain the size and weight indicated herewith:

	Diameter.	Of one kilogram bronze shall be coined—
	Millimeters.	*Pieces.*
(*a.*) 1 piece representing the value of 5 öre	27	125
(*b.*) 1 piece representing the value of 2 öre	21	250
(*c.*) 1 piece representing the value of 1 öre	16	500

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ARTICLE VII.

In so far as a perfect exactness as to weight and fineness cannot be obtained for the single coin pieces, the variation from it, either above or below the proper weight and fineness, shall not be more nor less than is indicated herewith:

	In regard to weight.		In regard to fineness.
	Adjusting by the piece.	Adjusting by the kilogram.	Net weight of each coin piece.
For 20 crowns	0.0015		0.0015 fine gold.
For 10 crowns	0.0020		
For 2 crowns	0.0030		0.0030 fine silver.
For 1 crown	0.0050		
For 50 öre		0.005	
For 40 öre			
For 25 öre		0.010	
For 10 öre		0.15	

In coining of gold care is to be taken that the deviation in weight for each denomination with or at 10 kilograms of coinage gold, is not to transcend 5 grams. The same normal rules for determining pure gold and pure silver shall form a common basis for assaying in the three kingdoms.

ARTICLE VIII.

All coins are to be coined with raised border; gold coins and silver coins, excepting 25 ören and 10 ören, are to be coined with a rifled ring each. Twenty-five ören and 10 ören with a smooth ring. The superscription shall plainly indicate the number of crowns or örens which the coins may respectively contain or represent. Likewise shall each coin show in which kingdom and in which year it was coined. Each kingdom determines the nature of the superscription and of the coinage of each denomination which it may coin for its own account.

ARTICLE IX.

All coins coined in accordance with the foregoing rules shall, under the limitations of Article X, be lawful currency, according to their respective value, in all three kingdoms, unless they should have suffered a violent or unlawful damage.

ARTICLE X.

Of smaller coins none shall be obliged to receive at one payment a higher rate than twenty crowns in one and two crown pieces, five crowns in smaller silver coins, and one crown in bronze coins. Gold coins shall cease to be lawful currency, as regards the treasury, when by their wear and tear 2 per cent. of their respective weight have been lost; and as regards the public, when ½ per cent. of their respective weight has been lost. Smaller coins shall cease to be lawful currency, as regards the treasury, when they are, respectively, so worn out that it cannot be determined with certainty in which kingdom it was coined; and as regards the public, when the superscription is illegible. Coins which, as regards anybody, are no longer a lawful currency, shall not again be put into circulation by the treasury. The same holds good with regard to silver coins which are 4 per cent. or more below their proper weight.

* * * * * * * * *

The remaining articles contain rules as to the *modus operandi* of each kingdom in introducing the new money system. This convention is to be ratified, and the ratifications exchanged at Stockholm as soon as it can conveniently be done. Gold coin and the new unit of calculation shall be introduced into the three kingdoms not later than the 1st of January, 1875.

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XI.—DOMINICAN REPUBLIC.

No. 87.

Mr. Vickers to the President.

DECKERTOWN, N. J., *September* 29, 1873. (Rec'd Oct. 14.)

SIR: I have the honor herewith to transmit to your excellency certain documents relating to the question of a protectorate, to be assumed by the United States if thought advisable, and other papers of equal importance bearing upon this question, together with copies of treaties attempted to be made with the government of Santo Domingo, looking to the total exclusion of Americans and American influence in the West Indies. My promise to President Baez contemplated a personal interview in order that I might inform your excellency of the result of my observations in that country, and the temper, disposition, and yearnings of the people. My ambition was, and is, to see your excellency and inform you about the questions involved in the inclosed correspondence, but owing to causes over which I had no control, and which rendered me powerless to act, as my own agent, have prevented me from the anticipated honor. However, as soon as my wife recovers from her sickness, so as to enable me to come on to Washington, if agreeable, I will be pleased to place myself at your orders. There are also some matters in connection with the company of American citizens who have leased the bay of Samana that, in my judgment, you should be informed upon, and which relate remotely to subject-matter of this letter.

I have the honor to be your excellency's obedient servant,

D. VICKERS.

General U. S. GRANT,
President of the United States.

Explanation.

This letter relates to the arrest of a Mr. Lafitte, who was implicated in a movement to overturn the government of President Baez. He was pursued, and fled to the protection of the English consulate, or what was for the occasion metamorphosed into the consulate * * * from which he was forcibly taken by the government, and taken to Santo Domingo city to be tried. The consul made complaint to some naval officer, who compelled the government of Santo Domingo to return the offender to the protection of the English flag, and to salute it; after which he was taken to Hayti by the English war-vessel, and delivered to his friends on the border. At the time the government of Santo Domingo charged Mr. Hamburger, the British vice-consul at Puerto Plata, with being in active sympathy with the revolutionists—as all the English, official, and otherwise—which this letter proves. I saw and read the original letter and can state that the facts exist as represented in the accompanying document.

Inclosures in the foregoing.

1. Mr. Gautier to Mr. Vickers, August 15, 1873, inclosing—
   A. Proposed treaty between Hayti and Santo Domingo.
   B. Remarks upon the proposed treaty.
   C. Mr. Gautier to Mr. Montauban, August 11, 1873.

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D. Mr. Gautier to Mr. Montauban, August 11, 1873.
2. President Baez to President Grant, August 18, 1873.

EXECUTIVE MANSION, *October* 13, 1873.

Respectfully referred to the Secretary of State.
By direction of the President:

LEVI P. LUCKEY,
Secretary.

[Inclosure 1.—Translation.]

Mr. Gautier to Mr. Vickers, August 15, 1873.

DOMINICAN REPUBLIC, MINISTRY OF FOREIGN RELATIONS,
Santo Domingo, August 15, 1873.

SIR: The Dominican government has just received a communication from the governor of Puerto Plata, stating that Francisco Garcia, one of the factious leaders who recently rebelled at Bajobonico, in the jurisdiction of Puerto Plata, while being pursued, left behind in his flight a letter dated May 19, 1873, written at Cape Haytien by one Segundo Imbert, and signed by General Juan Nuezi. The name of the person to whom this letter was directed at Puerto Plata had been removed, the paper having been cut with some care; but García having received amnesty, and having presented himself before Governor González, General David Vickers, commercial agent of the U. S. A., Samaná, revealed the fact that the letter had been addressed to an Englishman named Andrew Taphire.

General Nuezi informs Taphire in said letter that he sends it inclosed in an envelope addressed to Mr. Hamburger, vice-consul of Her Britannic Majesty at Puerto Plata, and that in order to carry out the plan of correspondence with which he was charged, (which was that which took place at Bajabonico and Alta Mira,) he must consult the said Hamburger in everything.

The governor of Puerto Plata is continuing, with the necessary precautions, the investigation of these facts, and this ministry has just sent a copy of the aforesaid letter to our chargé d'affaires at London, in support of the complaint which had already been preferred against that individual.

As you will readily see, this matter is one of such importance that I need not dwell upon it, and if we pass from facts to inductions, we shall see that the moment an English agent takes an active part in the revolutionary movements against the Dominican republic, which have their nucleus in the neighboring state of Hayti, this is an offense to our relations with the United States of America. I have thought it of the highest importance, both for the interests which you represent, and for those of the Dominican people, to inform you of all the above circumstances.

His Excellency President Baez, who is now in the commune of San Cristóbal, would be glad to have some further confidential conferences with you before your departure for the United States, both in reference to the matters referred to in this letter, and to others connected with the mutual relations between the United States and this republic, and he has, to this effect, instructed me to say to you that he would be very much gratified to have you make us another visit by the next Tybee, if there shall be no insurmountable difficulty in the way.

In the hope of seeing his excellency's wishes fulfilled, which would, moreover, be a source of satisfaction to his whole cabinet, I have the honor to offer you the assurance of my most distinguished consideration, and to subscribe myself, your very faithful and obedient servant,

M. M. GAUTIER,
Minister of Foreign Relations.

[Translation.]

A.—Proposed treaty between Hayti and San Domingo.

The undersigned, Jules Thirion de Montauban, envoy extraordinary and minister plenipotentiary of the Dominican Republic near the government of the French Republic, and Etienne Charles Laforestrie, chargé d'affaires of the republic of Hayti near the government of the French Republic, have agreed to submit to their governments the following articles:

ARTICLE 1. There shall be peace, friendship, and good understanding between the Dominican Republic and the republic of Hayti.

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ARTICLE 2. Neither of them shall, therefore, furnish, for use against the other, in any way or on any ground whatever, any aid or contingent, either of men, horses, money, provisions, munitions of war, or material of any kind. The contracting powers shall not permit the enemies of each other to pass through their territory. They shall oppose, even by force, any attempt at aggression which may be organized in their respective territories against one of them, and, as is usual in such cases, they shall disarm and remove as far as possible from the frontier without delay any person who shall have disturbed or sought to disturb the public peace of one of them, by taking up arms against the established government, and who shall have sought refuge in the territory of one of the contracting powers. Moreover, to this effect they shall, with one accord, adopt energetic and efficacious measures against the authors of offenses or crimes which may be committed on their frontiers to the injury of either of the contracting parties.

ARTICLE 3. Both republics mutually engage never in any way to dispose of their territory, nor of any part thereof, nor to mortgage any portion of their territory to a foreign nation.

ARTICLE 4. If both governments shall approve the present preliminary articles, their plenipotentiaries shall meet at * * * in the shortest time possible, for the purpose of concluding a definitive treaty on the basis specified in the foregoing articles.

ARTICLE 5. The two contracting powers engage to use every possible diligence to the end that the treaty may be made under the guarantee of England, the United States of America, and France.

In testimony whereof the undersigned have signed and sealed the present articles.

Done at Paris on the 14th day of July, 1873.

JULES THIRION DE MONTAUBAN.
CH. LAFORESTRIE.

A correct translation and copy.
[SEAL.] GAUTIER.

B.—*Remarks upon the proposed treaty.*

[Translation.]

Hayti solicits a treaty of peace with the Dominican republic, &c.

Such a treaty is the more simple and easy, inasmuch as it depends solely upon the will of its proposers. In fact, the Dominicans have never been invaders, even when the invasions of the Haytians have been most cruel and relentless. When there has been war between the two states, we, the Dominicans, have always been the party attacked, and have only defended ourselves.

Hayti desires such a treaty as may guarantee the independence of both republics, &c.

Dominican independence has been threatened by no other state than Hayti. Even now, at the very moment when they are asking the mediation of the representative of France, they send into our territory, on the northern frontier, the rebels Polanco, Luperon, and others, armed with Haytian guns and cannon from Juana Mendez, and, in order to protect them from our pursuit, they receive them in the fort of the same Juana Mendez, but one step from Le Massacre. Meanwhile, in the south, near Las Damas, in the commune of Neyba, our patrols rout a number of Haytians armed with Chassepot rifles and munitions of war from Hayti, some of which fell into our hands. When such things happen, is it possible to believe in the sincerity of a proposal for peace? Is this the good faith which should be observed in all human agreements?

The Samaná contract has made (it is said) a profound impression in France and elsewhere in Europe, &c.

We doubt whether France was at all surprised by it; because in her capacity as the moral protectress and faithful friend of the Dominican Republic, she has always been inclined to aid her in establishing her independence on a firmer basis against the invasions of the Haytians; and as Hayti has not yet renounced her plans of conquest and her hostile designs, to this and to nothing else was the Spanish annexation, accomplished by Santana, due; the plan for American incorporation and the treaty of Samaná were due to the same cause. These were measures which were devised for the purpose, if not of absolutely preserving our unconditional independence, at least in order to secure the lives and property of the natives of our republic against the knife and the machinations of Hayti, their most implacable enemy.

We deeply regret that we should be accused of uttering recriminations, because we have stated the facts as they took place; and that doubts should even be entertained on which side the scale ought to turn, on account of the supposition that there are faults on both sides. We should be glad to see those of the Dominican Republic pointed out, while those of Hayti are a matter of history. That is the reason why it would be so difficult to inspire this people with confidence in those whose bloody and devastating track, made at various times, can everywhere be seen. Their invasions, burnings,

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and murders in 1801, 1805, 1822, 1844, 1848, 1855, and all their outrages on our frontier up to the present time, are well known to all and need no comment.

The Dominican Republic desires peace, because it makes war upon none; but it wants a real peace, and as a proof thereof it would require first to see an act of neutrality and justice performed. Why does not Hayti, following our example, remove to the interior of her own territory the rebels who are now making war upon us under her patronage?

In speaking of our confidence in the French cabinet, we shall not proceed lightly, nor from mere caprice, but from a deep conviction of the generosity of the efforts which it has always made to strengthen the independence of the Dominican Republic. Let the acts of the empire be examined, and it will be seen what the Emperor Napoleon III did, at the time of the Franco-English mediation, for the accomplishment of that humanitarian project which was wrecked on the rock of Haytian obstinacy.

By way of recapitulation, I conclude where I commenced: if the Haytians desire peace, let them stop making war on us, and peace will be made.

C.—*Mr. Gautier to Mr. Montauban, August* 11, 1873.

[Translation.]

DOMINICAN REPUBLIC.—MINISTRY OF FOREIGN RELATIONS.

SANTO DOMINGO, *August* 11, 1873.

MOST EXCELLENT SIR: His excellency the President of the republic, who is now absent from this capital, in the commune of San Cristóbal, has to-day received the note which your excellency was pleased to address to him on the 12th of July last, inclosing the preliminary bases of a treaty of peace between the Dominican Republic and that of Hayti.

Both documents have been very carefully examined by the government of the republic, and, in reply, I hasten to write your excellency as follows:

The good intentions and the zeal of your excellency for the welfare of this republic are very laudable, as is your desire to see it sign a treaty of peace with the neighboring state. Your excellency has doubtless thought that a written convention, the terms of which should be executed in good faith, would secure the future prosperity of this country; and it was doubtless in view of this consideration that you consented to sign the preliminaries which you have submitted to this government; but your excellency is doubtless not aware that, at the time when you were signing those preliminaries, events were occurring on our frontiers which go far to disprove the genuineness of the good intentions manifested to your excellency by the chargé d'affaires of Hayti in the republic to whose government you are accredited, and which force the Dominican government to adopt the precaution of entering into no compromises which could not be reciprocal, in view of the well-known tendencies of the government of Hayti.

I will explain to you what has taken place.

Not long since, being induced by the respect which we entertained for the French agent residing at Port-au-Prince, Hayti, we consented to examine the preliminaries of a treaty of peace unofficially proposed by that government, and transmitted through the consulate-general of France in Hayti to the vice-consulate in Santo Domingo. The same spirit was manifest in that draft as in the preliminaries submitted to your excellency.

At the very time when those preliminaries were being read, the aggressions of a new faction had just been repelled on our northwestern frontier, and in one of the engagements General Andrieux, the second officer in command of the Haytien garrison of Juana Mendez, perished on our soil, he having been in command of the Haytien force that was supporting the movements of the Dominican rebels. His body, those of other Haytiens, a piece of artillery brought from that fort, a number of needle-guns, and a quantity of ammunition which fell into our hands, plainly show the failure of the Haytiens to observe the laws of neutrality, and the disguised hostility whereby our repose is disturbed.

In view of these facts, his excellency President Baez sent to the vice-consul of France, in reply, the written conversation of which I send you a copy.

Until circumstances change, until unmistakable evidences of cordial good faith offer us a prospect of entering into negotiations with success, the Dominican government must adhere to the answer given in the aforesaid conversation, because the disarming of the enemies of the republic, and their withdrawal from its soil, must not be the

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result of a treaty, but ought, of natural right, to precede the signing of such an instrument.

Deign, your excellency, to accept the assurances of my most distinguished consideration.

M. M. GAUTIER.

To His Excellency JULIO THIRION DE MONTAUBAN,
Minister Plenipotentiary of the Dominican Republic, Paris.

A copy.
[L. S.] GAUTIER.

D.—*Mr. Gautier to Mr. Montauban.*

[Translation.]

DOMINICAN REPUBLIC.—MINISTRY OF FOREIGN RELATIONS.

SANTO DOMINGO, *August* 12, 1873.

MOST EXCELLENT SIR: Your letter of the 12th ultimo, addressed to his excellency the President of the republic, was received yesterday, and I at once sent a reply which explains the conduct of the Haytien government in manifesting its desires for a treaty of peace, and the conduct which the Dominican government proposes to observe in the matter, viz: to listen to no propositions for a treaty of peace until the Haytiens shall have plainly shown, by their acts, that they desire to live as good neighbors.

Your excellency will hereby see the gravity of the act of affixing your signature to the preliminaries of the treaty of peace referred to in this communication, for although, as you say, it in nowise obligates the government, the antecedent still remains of the signing of this document by you, a representative of high grade of the Dominican republic, a circumstance from which the Haytiens will seek to make all the capital possible, with interpretations and commentaries, although these latter may be unjustifiable. The government, therefore, while disapproving your action in this matter, deeply regrets it, and instructs you to withdraw your signature from the aforesaid document if possible.

Your excellency, being at a great distance from the theatre of events, and being guided solely by your good faith and the customs in use among cultivated nations, can form no adequate idea of the machinations of that crafty government, which ever has an eye to the conquest of our soil.

The Dominicans, although poor, and inhabiting a comparatively obscure spot in the midst of the ocean, are proud of their independence and jealous of their freedom and their rights; they well know how great is the blessing of breathing the air of their native land, and what are the advantages of maintaining the integrity of their territory, and, sooner than preserve it for the vandals of the west, they would resort to any other combination more in harmony with the progress of the age and better suited to the dignity of their historical memories.

It is therefore necessary to destroy, as far as possible, all vestige of that document, and for you to avoid hearing Haytien proposals in future, which must be sent from Hayti to none but the supreme government of this republic, which alone is thoroughly acquainted with their tendencies and policy.

Be pleased to accept the assurances of my most distinguished consideration.

M. M. GAUTIER.

To His Excellency DON JULIO THIRION DE MONTAUBAN,
Minister Plenipotentiary of the Dominican Republic, Paris.

A copy.

GAUTIER.

[Inclosure 2.]

President Baez to President Grant.

[Translation.]

SANTO DOMINGO, *August* 18, 1873.

MOST EXCELLENT SIR: It is now thirty years since the Dominician people, having been for the third time surprised by the invading hordes of Hayti, and having been under their domination for twenty-two years, reconquered their rights and proclaimed their independence.

From that time until the year 1861, when the re-incorporation of this country with Spain took place, there was but one interval of truce to the continuous and vandalic aggressions of that government, which never ceased to long for the conquest and devastation of our soil.

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To no other cause was then due the fact of the re-incorporation of this country with Spain, a combination which was thought likely to prove beneficial by the political men of that time, who had no realizing sense of the great difference of our institutions, or of the series of insurmountable obstacles to the establishment of the monarchical colonial system in an American country, which had so long had its destinies in its own hands, however precarious they may have been.

The war of restoration having come to an end, and the rights of the Dominicans having been asserted, Hayti did not again enter the arena as an invader, but commenced a secret war of a more malignant character, thenceforth using the Dominican element in order to crush the liberties of this people, if possible, by the aid of its own sons. Hayti at once assembled the malcontents, and did all in its power to encourage rebellion, offering aid and comfort to the rebels, giving them an asylum on Haytien soil; sending them, with arms in their hands, to our frontier, and frequently assigning Haytien regular troops to aid their movements and to protect them in their flight.

To these tactics is due the fact that, consuming our resources and savings, (although always successful on the field of battle,) we have not yet been able to complete a victory. The enemies of the Dominican Republic flee to Hayti, where they live undisturbed, and where they easily repair their continual losses.

Such a situation caused the people of this republic to seek to improve their condition by rendering their future more secure; they, therefore, manifested a unanimous desire for annexation to the great republic of the United States of America.

Unfortunately that plan failed, leaving the country in the midst of a multitude of difficulties created by that combination, and, what is still more deplorable, the object of the jealousy, and even the hatred, of other peoples, whose interests did not accord with the security and progress of this.

The agreement made with the Samana Bay Company has given the finishing stroke to this situation, especially since the noise of its establishment has been succeeded by the most absolute silence and the most listless indifference.

It not being possible for the Dominican people to continue to support, alone and unaided, the horrible consequences of a combined hatred, which manifested itself in disguised attacks and machinations, they appeal to the great republic of the United States, through your excellency, soliciting the establishment of an efficient protectorate, which may preserve them from unwarranted attacks aimed at their very existence.

The Dominican people believe that this will not be distasteful even to the opponents of the plan of annexation. It would be an act of munificence and generosity whereby the republic of the United States would risk nothing, since it would simply cover with its ægis an inoffensive and friendly people whom Providence designed to be its natural ally; and all the sons of this people would greet with joy the day when their powerful sister should stretch out a hand to save them from the dangers which encompass them; which dangers would instantly disappear in view of such a diplomatic act.

If your excellency, seeing that the fate of a people without pretensions is at stake, shall feel, as I hope will be the case, a sympathetic impulse to do them justice, and shall make an effort to secure for them the protection of the republic of the United States, you will have the immense satisfaction of having saved the future of a people of the world discovered by Columbus, without having assumed any responsibility, or having entered into any compromise whatever, since we are not invaders, and make war upon none, and the height of our ambition is to dwell upon our own soil in peace.

I avail myself of this occasion to reiterate to your excellency the assurances of the sentiments of distinguished consideration and profound esteem with which I have the honor to subscribe myself.

Your excellency's very obedient and respectful servant,

BUENAVENTURA BAEZ.

FELIX MA. DEL MONTE.
MANUEL MARIA GAUTIER.
R. CURIEL.

To His Excellency ULYSSUS S. GRANT,
President of the United States of America, Washington.

No. 88.

Mr. Fish to Mr. Vickers.

DEPARTMENT OF STATE,
Washington, October 25, 1873.

SIR: Your letter of the 29th of September last to the President, with its several inclosures, has been referred to this Department. The in-

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closures appear to be letters and documents transmitted to you officially in August last, before your resignation and while you were the commercial agent of the United States at Samana. It is to be regretted that you did not transmit these documents to this Department in your official correspondence in the usual manner before resigning your position.

I am, sir, &c.,

HAMILTON FISH.

XII.—ECUADOR.

No. 89.

Mr. Wing to Mr. Fish.

[Extract.]

No. 264.] LEGATION OF THE UNITED STATES,
Quito, Ecuador, December 6, 1872. (Rec'd January 29, 1873.)

SIR: The increase of German enterprise upon this coast is marked.

No German steam line as yet exists, but I am credibly informed that of late more than one-half of the carrying vessels that have entered the ports of this republic fly the German flag.

The increasing value of the commerce and internal traffic of Ecuador has been set forth in a number of my preceding dispatches.

A scheme is likewise on foot for the introduction of one or more German colonies at an early day.

* * * * * * *

I am, &c.,

E. RUMSEY WING.

No. 90.

Mr. Wing to Mr. Fish.

[Extract.]

No. 278.] UNITED STATES LEGATION,
Quito, Ecuador, January 29, 1873. (Received March 5.)

SIR: Referring to my dispatch No. 276, I have the honor of forwarding, per this mail, two copies of El Nacional, of this city, of January 17 and 20, respectively, containing a report from the explorer, Dr. Reiss, to the president of this republic.

I also append hereto a translation thereof, which has been very hastily made, and may be a little faulty in a few points.

* * * * * * *

I am, &c.,

E. RUMSEY WING.

[Inclosure 1.]

Dr. Reiss to his excellency the President of the republic of Ecuador, regarding his trip to the Ilinisa and Corazon Mountains, and especially his ascent of Cotopaxi.

YOUR EXCELLENCY: Through the governor of Leon I received the letter which your excellency did me the honor to forward me. Allow me to thank your excellency for

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the important information concerning the Galapagos Islands, which I shall return after having taken a copy.

I must request your excellency to excuse me for not having written in a long time, but since my departure from Quito I have lived in the paramos, availing myself of the fair weather, and working every day, and hence, for lack of time and means, I have been unable to write.

As I have already said, the weather has never been so favorable as at this time, so that I have been enabled to advance my work a great deal, and, should the season continue fine, I shall probably be able to finish my observations of the volcanoes of Ecuador by the middle of next year, and, if possible, I shall hope to visit the islands under the eminent assistance of your excellency.

Confiding in the interest and great kindness which your excellency has been pleased to exhibit to me, I take the liberty of setting forth here the results of my last trip.

On my departure, the 5th of November, I went directly to the hacienda of Mr. Philip Barriga, who had offered me the hospitalities of his place, and where it was easy to secure men and everything necessary for my explorations of Iliniza and Corazon. Iliniza is composed of two distinct mountains. The north peak appears to be the most ancient, so that the eruptions from the south point have covered, in a great measure, the plains to the south thereof.

From these circumstances it appears that there is between the acclivities a hollow, at present filled with the snow that comes down from the southern point.

This hollow is rather wide, and, as it has a slope from the east to the west, it forces this snow to go down to the head of the Hondon de Cutucuche.

Almost all the high peaks of the western Cordillera are very elevated, and have deep valleys in the plains to the west. But Iliniza is an exception to this rule, so that it is easy to reach there on horseback; while deep and almost inaccessible ravines descend the eastern side, distributing their waters on the plains of Callo and Machache.

Iliniza is really one of the handsomest mountains of northern Ecuador. Its isolated position, its great height, and the union of the two snow peaks, cause it to surpass the other mountains of this Cordillera in beauty; and a narrow ridge, formed in part of ancient rocks and in part of volcanic material, connects it with the Corazon; while to the south it extends itself between Iliniza and the old Cordillera of Guangajé and Grintivi, and the plain of Curiquingue, in whose lap lies the town of Toncoa.

The old formation, which is covered with volcanic masses from Iliniza, extends to the west, forming the hills, covered with wood, which inclose the rivers Atacames and Toacho; and among them deserves to be especially mentioned the Cerro Azul, celebrated for its great wealth of Peruvian bark.

The point north of Iliniza is composed of thick streams of lava of a very singular composition. The lava does not appear like solitary and crystallized rocks, but rather like so many breaches, that is to say, that it is an agglomerated or entaxitized lava; while the lava of the southern point is compact and well crystallized.

As an interesting fact, I may mention that, in the midst of these rocks, essentially traptuff, varieties filled with olivine are to be found.

In short, Iliniza appears to be an old volcano, whose form is at present greatly altered by the action of the water; notwithstanding, the more recent lava preserves still the peculiar and characteristic aspect of the streams of its type.

The only indication of the interior heat of this peak is given, perhaps, by the hot springs of Caricunucyacu and Guarmicunucyacu, at the head of the river Blanco, on the eastern side of the hill.

I had already visited Corazon in the year 1870, together with Dr. Stubel, and was surprised at the deep hollow that this hill incloses. It was, however, impossible for us to descend into it from our point of observation. To see this same hollow again, I went to the southwest side of Corazon, from whence, with but little difficulty, I arrived at the bottom. This hollow, which is the deepest that I know of in Ecuador, is surrounded by rocks as high as those in the crater of Pichincha.

The point of Corazon is elevated	4,816 meters
The hillock in the hollow to	3,612 meters
Hence depth of hollow	1,204 meters.
Crater of Pichincha	773 meters.
Peak of Pichincha	4,787 meters.
Bottom of crater	4,016 meters.
Depth of crater	771 meters.

Deeper than the crater of Pichincha, but not so deep as the hollow of Corazon, is the crater of Rumiñagui, which can be seen from the road between Machache and Tinpullo.

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Peak of Rumiñagui	4,757 meters.
Bottom of crater	3,950 meters.
Depth	806 meters.

The other crater and hollow are insignificant in comparison with those of Corazon with the exception of Antisana.

I took the height of Corazon, and, according to the results of my trigonometrical observations of 1870, and November, 1872, I find that the peak of the hill is a little more than 4,800 meters, about 30 meters higher than the barometrical observations.

During my visit to Corazon the sky was very clear, and several times I succeeded in seeing the peaks to the west, almost to the plains near the sea, and particularly the valley of the river Curiyacu, beyond its conjunction with the river Toache; and I must confess that you can rarely find better ground for a road than that beautiful valley.

In the midst of the innumerable hills that surround it, almost at the heights known as Cerrito de Chaupi, it appears that, notwithstanding that, it is a volcanic range which in any other part of the world would be called high and large. From almost all sides three peaks may be distinguished which appear to form a small range, but which in reality are the highest points of the walls of a rather large crater called Hondon de San Diego, whose waters, running down the northern side, unite the river Curiquingue with the water that passes the bridge of Sambeli.

The eruptions from this mountain have made a union of Rumañigui and Iliniza, thus breaking the continuation of the deep valley between the two old mountain-chains, and which, by means of volcanic ejections, form the high plains of Machache and Latacunga.

In my former trips I examined Cotopaxi from all sides, with the hope of finding some point where a successful ascension could be made, and I fixed on the most elevated part of the mountain, where some black lines come down from the crater to the lower snow-level.

Being occupied in taking trigonometrical measurements in the hacienda of Chaupi, I succeeded in observing the mountain for several days. In the beginning of November the brow of the mountain was so covered with snow that not a single black spot could be seen, and this seemed to corroborate the expression of Baron Humboldt that it appeared as if shaped by a lathe.

With the dry and warm weather of November the snow which had fallen in the storms of the previous month slowly melted, and very soon the black rocks in several places on the western side were visible.

The border of the crater was relieved of the snow, showing a black line on the southwest peak, which every day extended itself lower down.

On this part of the mountain several black rocks were discerned in the low snow-limit, which visibly grew larger in the direction of the crater.

Day by day the opposite extremes of the two black lines came closer together until the one descending and the other ascending, they met, forming a narrow, black road to the southwest border of the crater.

On the 24th of November the union of the two black lines was effected; and on the 25th I went to Tiopullo to make immediate arrangements for my trip to Cotopaxi.

On the 26th, while the peons were getting ready, I made several observations, visited the small mountain of Callo and the ruins of an old Inca palace. It appears that the Callo mountain is the peak of an eruption similar to that of Panecillo, at Quito, but is now almost buried by the ejections and inundations from Cotopaxi.

The ruins of the Inca edifices are very interesting, but it is painful to see the way these relics of a past civilization are destroyed. The owners of the San Agustin hacienda dispose of these ruins as something of no value, but rather a nuisance; and the walls of the ancient temples, which have resisted for three hundred years the weather and volcanic shocks, serve to-day as pig-sties, or are tumbled down to make use of the well-cut stones, and to give room for new houses, (which, to say the least, are mere piles of mud,) which could have been built in any other part of the hacienda.

These ruins are not really the property of the owners of the hacienda, nor do they only belong to the country, whose ancient history represents the most glorious times, but they belong also to the civilized world. It is very important to save the little that now remains.

A single room exists to-day intact; and now this last rememberance of the Inca arts will be destroyed to build upon its ancient walls a new hut. It is true that these walls are still preserved intact; but soon they will be soiled and closed with mud, under the pretext of whitewashing the house, and then the walls will be broken to make windows and doors, which will afterward be closed with mud.

There is no salvation whatsoever for these interesting ruins unless they are placed under the protection of the government.

Your excellency will excuse me if I have departed from the limits of my report, but

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it causes indignation to see these ruins (which should be kept sacred for the high interest they claim in the civilization of a primitive people) thus barbarously destroyed. If I mention this matter here, it is because I am convinced that once the attention of the enlightened government of your excellency is called to this fact, the country will be spared the misfortune of having destroyed in the nineteenth century that which was respected by the bigoted and rude Spanish conquerors.

And it does not appear to me difficult to save the room that exists, as it is not large, and as the hacienda has ample space for the building of new houses.

The owner should sell for a moderate sum this small part of his land, on the condition that the walls should be kept intact as national property.

On the morning of the 27th all the mountains were entirely covered with snow from the peak to the base, and unfortunately among all the peons that the authorities of Mulalo had sent me there was not one who was acquainted with Cotopaxi; but as I had already examined the shape of the mountain, I went from Santa Anna in a straight line to the south-west point; and as there are no cultivated lands it was easy to follow the direction, especially after the peak appeared above the clouds.

We passed the river Cutuche, which comes from Limpiopungo around the western foot of Cotopaxi, near the huts of the San Joaquin hacienda, where it passes through a wide drain between low hills of volcanic stones. The plains in this part of the base of the mountain end on the banks of the river; and as they are composed of soft volcanic stones, it is possible to ascend anywhere.

Insensibly the ground rises from Ventanillas to the foot of the slope of the cone; but these plains, which from Santa Anna appeared to be of short extent, are, in reality, very extensive. Scattered stubble from three to four feet in height form the vegetation of these arid and dry plains, and for lack of water no cattle can be kept there. All the water immediately penetrates the porous, tophus stones, and comes out again in very small streams through the rocks by the banks of the river, leaving the ground perfectly dry.

Only during heavy rains are small streams formed on every side, destroying with the sand the little grass that is produced in the shade of the stubble.

At 9.15, two hours after our departure from Santa Anna, we reached the beginning of the ascent of the cone of Cotopaxi.

It was not easy to lose the road, as the spot where I wished to put my tent in the snow-line was the upper part of the hill that is inclosed between the two deep ravines of Manzanguaico and Pucuhuaico.

Both ravines commence a little above the snow-line.

The northern ravine runs to the west, and unites near San Joaquin; while Pucuhuaico, the southern ravine, goes to the southwest, forming with Sisihuaico the river Saquimalac, which, passing near the town of Mulalo, unites much lower down with the Cutuche.

It is clear that the hill between the two ravines, forming a triangle, whose base is the river Cutuche, and whose peak is in the snow-level, was the point desired for our camp, that is, the hill, very wide at its base, grows narrower toward the top, and ends in the snow limit, where the two ravines are separated by a narrow ridge of rocks; so that once we had passed the river Cutuche between the confluences with the two mentioned ravines, we had only to continue going up without crossing any other deep ravine.

The weather cleared up a little and gave us time to inspect the point to which we had arrived.

An elevated hill was noticed on the left-hand side, and extended like a promontory into the plains towards the Cutuche.

This is the Ami hill, visible from some distance, and one of the points was to serve as a mark in the road. Ravines of considerable depth, separated by narrow ridges, descend here from the elevated part; but these ravines are dry, commence near the sandy ground, and are completely lost in the plains of Cutuche. Very small trees, forming a real forest, cover the hills between these ravines, and it was somewhat difficult to make a road for the cargo-mules.

Soon we arrived at another plain, higher, but narrower, than the first.

A new ascent presented itself before us, very high and much worn by the rains which fall during the storms, and come down like small creeks upon these barren slopes. At this point there are no bushes; and the straw is also scarce and almost destroyed by the sand and ashes from the volcano.

Notwithstanding that in this ascent yellow tophus is found, I think it best to fix in this point the beginning of the sandy part.

This ascent, though short and somewhat dangerous, brought us directly to the sandy part, that is, that part of the mountain where all vegetable life ends, and where the surface is covered with black sand and ashes.

Almost all the west side of Cotopaxi, between 3,900 and 4,600 meters, owing to this sand, has the appearance of a black, gloomy desert. The desert exercises an influence of terror to the traveler. It is impossible to judge of distances or the size of visible objects.

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At every step one sinks into the sand, and it is hard to travel without great difficulty.

The lack of water in a place that appears destined to cause thirst; the metallic reflection of the ashes; the monotonous form of the mountain-side, whose irregularities have been leveled by the action of the sand, which becomes deeper in proportion to the ascent; the uninterrupted silence of these places, where man appears to be an intruder, all unite to impress the imagination, and direct the thoughts to the mysterious subterranean forces, which, laughing at human attempts and investigations, carry with them death and destruction, changing into uninhabitable wastes lands teeming until then with life and vegetation.

In fine weather these sandy places can be passed without difficulty, and the immense view from these heights, and the proximity of the snowy cone, divert the observer; but, in bad weather, covered with clouds, with strong winds and snow-storms, it is impassable. It was not then to be wondered at that, under such circumstances, the peons lost heart, and principally those who had ascended so high a mountain for the first time, and should more desire to return than to keep on, when even the veterans who had been with me for three years now advanced with great unwillingness. Without knowing if our journey's end was near or far we traveled in the midst of dense clouds, without being able to see the road we were to take or the part we had passed over.

Slight undulations of the ground seemed like deep ravines or high mountains, and, often losing the direction, we were forced to make useless turns, without being able to judge of the distance gained.

A hail-storm, brought by a cold strong wind, rendered our situation more disagreeable; and when the clouds scattered, we discovered on our left hand a deep ravine, whose bottom was filled with fresh smoking lava.

We were now near the end of our day's journey, as this lava was but the lower part of the large mass which forms the black lines already mentioned.

A little after we could see the snow, and with renewed strength we went ahead.

The mules could hardly advance, as they sank to their knees at every step, and suffered a great deal from the rarefied air, so that I was obliged to have my baggage carried on the shoulders of the men for the few hundred yards of the ascent. At two o'clock I arrived at the top of the hill, which comes almost to a point, as the rocks of the two ravines unite here, and the currents of lava which come down from farther up, united a little above the end of the hill, divide here in two parts, the one for Manzanahuaico and the other for Pucahuaico.

During a hard snow-storm, which in a little time covered the black sand to the depth of an inch, we put up the tent.

But this was not an easy task, as the greater part of the peons shirked the work, discontented, until I lost patience, and with irresistible logic I dissipated their fears. From the hacienda of Chaupi I had brought the poles for the tent, and charcoal to procure water for us.

To remain in this part of the ascent of Cotopaxi it is necessary to go up to the snow-level, or carry water from the river Catuche, for without water it is impossible to exist in this high land, where thirst is more terrible than in hot countries.

At about six in the evening the upper part of the mountain suddenly cleared up, allowing us to enjoy a sight at once grand and imposing. The snow-cone lifted itself just before us, not very high, and consequently steep.

In the cavities of the almost vertical rocks that surrounded the crater on this side, as also from the border of the crater, the sulphurous air arose in white clouds.

The border of the crater was shown by a wide line of high rock at the northern and southern side.

Below the rocks that crown the crater very steep tracts of sand extend, in which, as in the snow, you can see the lines made by the stones thrown from above, and in the southwest side of the mountain comes out of the largest sandy tract an immense mass of lava that extends down almost to our camp, where it divides and enters into the two mentioned ravines.

I was able to note that this lava is composed of four principal currents, that, uniting and separating, form the black line that is distinguished at a distance on the mountain-side. All this lava is still warm, as was shown by the quantity of sulphurous steam which arises from the many holes therein, and which my peons compared very well with the smoke of the charcoal-burners.

Night had set in, and still all my peons had not arrived, so that I was obliged to go down almost to the place where we had unloaded the mules to make them come faster.

In the afternoon the thermometer was nearly at zero; during the night it went down to 3½ centigrade below zero, while, at a less elevation, in the Hondon of Cutuculu and the western slope of Iliniza, I had seen it go down to 6° below zero.

On the 28th all our hopes were realized. The mountain in the early morning was clear, while at our feet the clouds filled like a sea of cotton all the lower part of the high mountains; so that but a few snow-peaks were visible above the clouds.

Unfortunately it was impossible to leave early, as the half-melted snow of the pre-

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vious day was during the night changed to a soft ice-like glass, and it was necessary to wait until 6.45 to ascend with security. Coming down the rocks on the Manzanahuaico side, we went between them and the sides of new lava to the point where it is separated from the principal mass. Here it was necessary to ascend on the lava; but as the stones that covered the surface of the currents of lava permitted us to step with safety, we managed to ascend with security from stone to stone as on a ladder. The lava forms large hills that end in the lateral sides in very steep declivities, covered with gravel fallen from the large stones during the movement of the lava.

The surface is composed of large stones, almost always scorified, and piled up in a fantastic manner, forming peaks and steep picturesque slopes in one place and arranged with symmetry in another; but the borders of the lateral sides are always higher than the central part of the lava; so that there are two high parallel lines, between which the principal part of the lava descends. The four streams which have come out of this part form an immense stony section, and hence it is impossible to exactly determine the course of each one of these arms. These unite and separate again, thus inclosing holes often deep and filled with sand and gravel.

Near the tent, before the two arms of Manzanahuaico and Pucuhuaico separate, the lava is from 600 to 800 meters in width, and gets narrower little by little, until it ends in some black rocks, surrounded by sand, at a height of 5,560 meters.

The lava is black, and of the same appearance as the new lava in the different parts of the mountain, but, as I have said, still warm in the entire course.

While the temperature of the atmosphere did not descend to zero, it was, according to my observations, from 26° to 32° centigrade in the fissures of the lava. It appears to me that the hot gas that comes out between these fissures is merely atmospheric mixed with a little steam, and these exhalations are caused by the evaporation of the snow falling upon the under warm lava.

The elevated temperature of the lava explains the lack of snow, and I think now that the fresh lava also, that it is absorbed under similar circumstances, in the other parts of the mountain, may have still as high temperature; but I have not observed this fact in consequence of the slight difference that in a clear day must exist between the natural temperature of the lava and that of the lava heated by the sun. This temperature is not maintained by the inner fire of the mountain, as no fissure communicates to this lava the central heat; it is merely the remainder of the heat that it has when it comes out in a liquid state from the bowels of the mountain.

The lava covered with scoria preserves its heat for a long time, cooling very slowly, and more especially if the mass is large. And according to the shape of the ground it cannot be doubted that this mass is 30, 40, and up to 60 meters in depth, because it has not only filled the upper parts of the two ravines several times mentioned, but has also covered the hill between them, forming an elevated line, where before there was a hollow in the brow of the mountain. According to the notes I have been able to make, this is the lava of the eruption of 1854, when the inundations from the river Catuche carried away the Latacunga bridge.

Many persons still remember the beautiful view that was to be seen of the cloven mountain, as they call it, from top to bottom, when the inner fire on the brow of the mountain could be seen.

But this fire was merely the descending lava, and the rivers of mud were caused by the snow melted by the heat of the same lava.

The water, suddenly produced in large quantities, must have caused destruction in the elevated part of the mountain, and, mixed with sand and ashes, came down like mud to the plains at the foot of the mountain.

Stones still hot from the lava were carried down by this inundation, so that the river Catuche near Callo appeared like a river of fire; and it is asserted that hot stones came as far as Latacunga.

As in this eruption, it happened the same in others: these eruptions, which are the terror by the streams of hot lava that descend the snow on the upper part of the mountain, and never by the expulsions of water. The snow never melts, either, on all the mountain, as is generally believed, for should this happen at any time, torrents of water would be found in all the ravines. It is not so, however, and the water is only found in one of the many new streams of lava that are in the circumference of Cotopaxi. If, at any time, all the mountain appears black, it does not proceed from the lack of snow, but from the black ashes which have fallen on it.

Mr. Gomez de la Torre ascended with several companions after the eruption, and, according to the account of these gentlemen, it appears that the interior fire, that is to say, the burning stones of lava, were in two parallel rows, which came down from the brow of the mountain and were joined together by means of many transversal lines of fire. This description is in conformity with the figure of the lava mentioned above; the two parallel rows correspond to the contact of the running lava with the lateral hills now consolidated, and the transversal lines are caused by masses of scoria, which, swimming in the liquid lava, are moved very fast in the middle of the stream

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and, consequently, are arranged in curved lines, convexed underneath, and allowing the warm under lava to be seen in the interstices.

No accumulation of scoria nor crater-stones show the point from which this lava comes.

The highest points of the lava disappear under a steep, sandy covering, which comes down from the rocks at the peak, and is lost in the arms of this lava.

At 8.45 we arrived at the upper part of this, having ascended 900 meters in two hours.

But farther on the ascent was more difficult. In a plain of fine, deep sand, whose inclination increased from 35 degrees in the lower part to 40 degrees in the upper, was the path we were forced to follow, for, to the right and left, the sand was covered with snow, or, rather, hard smooth ice, which afforded no secure footing; while the sand, which had a temperature of 25 degrees, gave us a really bad, but not difficult, road. Going backward and forward we managed to make a little headway, although we were soon tired in consequence of the sand, and, at short intervals, we were compelled to rest, and for the balance of the way I was unable to enjoy a cigar.

We left on our left hand the beginning of another stream of lava, which probably belongs to the same eruption, and which is also still warm, as on the surface the snow liquefied very quickly.

This lava must have come out with much velocity, as, instead of following the inclination of the ground, it crossed the brow of the mountain diagonally, and descended toward the other ravine. But only a part of the lava could descend by this ravine, while the principal portion was forced with such swiftness down the side of the cone that it extended itself on the hill at the opposite side of the precipice. This black line, which goes from one ravine to the other by the snow-section, presents a singular aspect to the western slope of the mountain, and is visible from a distance. The snow of Cotopaxi had been clear until then, and the rising sun behind it threw upon a plain of clouds the immense shade of the cone, which was extended to Iliniza, diminishing every moment until the sun lighted up our road also.

Of the other peaks the only ones visible were Iliniza and Chimborazo; but above the clouds, in a southwesterly direction, a dense mass of smoke, composed of four columns, heavily loaded with ashes, which arising perpendicularly to a great height could be seen. There was Sangay, whose peak was invisible, but whose eruptions were manifest in the manner indicated. As the sun slowly arose the clouds scattered, revealing the different provinces extended at our feet. Like a large map spread out before us, we could see the plains of Latacurga, the Rumiñagui, covered with snow, surrounded amidst its fantastic rocks, the plains of Hornoloma and Pedregal, and in the distance the valley of Chillo. Nearer to us, and almost at our feet, was the peak known as the Cabeza de Cotopaxi, toward which descended a steep slope of ice and snow, which to look at almost caused vertigo. The clouds kept ascending faster than ourselves, and while some of the smaller clouds coming from the east sailed towards the peak, the clouds from the west caught us. When we could no longer see where to go, we quickly lost courage and confidence in our strength; and even I thought several times in this part of the ascent that it would be impossible to reach the peak. We arrived at last at the most difficult part of the ascension; and as it was impossible to continue straight ahead toward the upper part of our sandy path, it was necessary to go a little to the south to reach some rocks that descend from the southwest of the crater in the direction of the Cobeza del Cotopaxi. Fruitless were the attempts we made to cross these rocks, as the sand was hard and mixed with ice, until at last we passed them by going up to the point where they overtop the snow. Having arrived at the rocks, (5,712 meters,) at 10.15, I sat down for the first time to await my companions.

But the only one I saw was my major-domo, a faithful companion for more than four years in all my journeyings, and my poor little dog, which followed his master crying and moaning in great trouble. The rocks where we were were the remains of a decomposed old lava filled with many cavities, from whence began to exude a penetrating smell of sulphuric acid. From below it had been impossible to judge well of the nature of these rocks, and I had doubted the possibility of being able to ascend by this road. As this part is very steep, and the ground that covers it in many places was hard and slippery, this part of the ascent was somewhat difficult; but, assisting ourselves with our hands, we managed to ascend very slowly, resting at every step.

We walked along the border of the southern side, where we had already made several attempts to reach the mountain peak. Whoever has had occasion to see this slope from above, as we have, would not have wondered that nobody could have arrived by this road. A blue compact ice covers the slope, whose inclination is from 35 to 40 degrees. It is true that the ice has no smooth surface; on the contrary, it is much cut up by the small points from 3 to 4 inches in height, notwithstanding that it is impossible to walk without cutting steps and exposing one's self to a certain death by a fall. Walking on the firm ice was less fatiguing than walking upon the uncertain sand, where we could walk without attending to the stones that came tumbling down from the rocks at the peak in immense jumps, and whistling like balls.

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One moment we had to stoop, another to jump from one side to the other, to avoid injury from stones falling for more than 300 meters from the height above, as large as a man's head, and which had force enough to occasion serious wounds.

Until then I had been in advance, but I noticed that my major-domo lost courage when walking behind. I made him take front and I the rear.

The walking in this last part was bad, as the decomposed stones broke under the weight of man.

One of those stones fell on me in a point where it was impossible to avoid it, and I was so hurt by it that I felt constrained to return, though I was very near the top, and from which I have not as yet recovered, though more than a month has passed.

The peak was entirely covered with clouds, and for this reason the rocks in front of us appeared very high and distant; but going more to the southern side, we suddenly arrived at the top.

At that moment the clouds were dissipated, and for the first time human eyes explored the bottom of the crater of Cotopaxi.

I cannot, nor do I wish to, deny that I was happy in having been the first to ascend the highest of the active volcanoes of the world. A similar sensation was painted on the face of my companion, Angel Maria Escobar, of Bogota, who had had a real triumph in ascending to that height, although he suffered a great deal from the rarified air, while I had felt nothing on the entire road. The border of the crater was covered with clouds which, without filling the cavity, passed by the peak of the mountain.

We had reached the western part of the southern edge, alongside of the southwestern peak, in a place where there was no snow.

The crater appeared to have an elliptical form—wider from north to south than from east to west. From all points large rocks hang down, which unite at the bottom in almost a point. A large mass of snow covered the northern part, almost from the top to the bottom, while in the other parts of the crater there are but a few pieces of ice.

The many falling stones which have descended from all parts do not allow the true construction of the walls to be seen. This falling is very frequent, especially on the western side; and the noise from the rolling stones is continually heard.

The less inclined part, and where the crater could perhaps be entered, is on the southwest, where we observed many cavities of considerable size and without any noise, dense clouds of white steam which have a strong odor of sulphurous acids, and where small deposits of sulphur have been formed. From several points on this side hot steam issues, but we were unable to see any sublimate deposits, and no evidence of that strong coloring that is observed in many craters. The depth of Cotopaxi appeared to me to be about 500 meters, but this calculation is in no wise absolute. Being completely isolated in the air, far from points of comparison, tired from the effect of the ascent, it is almost impossible to judge with certainty distances and heights, and much more when the clouds threaten to conceal everything from view, so that neither time nor tranquillity are allowed for observations. We were but a short distance from the rocks at the southwest peak, which is the second in height, according to my trigonometrical observations, repeated many times from different points and bases.

My barometer gave me 5,993 meters, so that the results obtained by both methods give a higher altitude than those published by previous explorers. It is very probable that the temperature which I have taken in account is too high, but as probably all the air above the crater has an elevated temperature from the hot steam, I have been unable to secure better data.

The rocks at the southwest are split all over; and steam of 68 degrees centigrade issues in great quantity with a strong sulphuric acid odor, which cannot be tolerated when the wind blows toward the observer. In these cavities a white substance is found, which, according to the assays of Father Dressel, is a kind of chalk, but it is interesting to find, together with the chalk, chloride, because it is the first time that chloride has been found in a South American volcano. Humboldt, even, thought that the lack of hydrochloric acid was characteristic of the volcanoes of the new world; and neither Boussingault nor Deville had met it during their observations. I had found a direct proof of the existence of this acid in the iron of Antisana, but it was reserved for Father Dressel, of the laboratory of Quito, to prove in a direct manner the presence of this interesting acid. The products of these cavities showed a very singular reaction; all the papers that were used were spotted with violet, which after some time disappeared; notwithstanding that, I sent samples to Father Dressel to find some indication of iodide, or some other substance that could have occasioned these spots.

While I was mounted on the border of the crater, and Angel Maria held me by one hand, and examining with the other the deposits of the cavities, a gust of wind filled both eyes with sand impregnated with sulphuric acid, causing a strong and immediate inflammation, from which I have suffered several weeks; so that, almost blind, I could only think of returning downward as fast as possible. At 11.45 we reached the border of the crater, and at 1.15 we commenced the descent.

Avoiding the rocks as best we could, we descended at all speed.

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About 300 yards from the peak we met the two first peons, and at 5,700 meters another peon with provisions for breakfast.

Notwithstanding the fact that we had only had a cup of coffee in the morning, we could not eat. After a few prickly pears, and some brandy mixed with pieces of ice, and happy, without minding a keen hail-storm, we ran down through the sand.

A few moments after we reached the edge of the lava, and at 3.30 the camp, just as a strong snow-storm began.

I wished to examine in a fuller manner the new lava and the western side of the mountain, but the snow-storm, lasting twenty-four hours, obliged me to break camp and return to Santa Anna, where we arrived the 30th of November, between one and two in the afternoon.

I have made a lengthy report of my ascension to the top of Cotopaxi, because I was the first person to do so, and because I know that the few persons who would ascend, from scientific interest, could not undertake the trip without your excellency's assistance; so that this report will serve as a guide. I have dwelt at length on the first day's journey because all depends on the point where you pass the snow-limit.

I will not say that it is impossible to ascend from another point, but I am inclined to believe that my road is the best and shortest of all.

In no part is there much danger. In four or five hours one can go from the snow-limit to the peak; but as this ascent is long and somewhat hard, it is best to sleep the first night at the snow-limit, carry a tent the second day to the sandy section, at 5,500 meters height, where you can sleep very well, as the sand is warm, and go up the third day to the crater. In this way you can arrive early, explore the entire circumference of the crater, descend to the bottom, and, in short, make all those explorations that I was unable to execute.

If the scientific results of my ascension do not correspond with the expectations of the savans I can console myself with the idea that I have shown the road, and that other more skillful, stronger, and more fortunate travelers can go up in future to the crater of Cotapaxi, free from the bug-bear, the difficulty of difficulties—that is, the general conviction that it is impossible to ascend to it.

In the accounts of the ascent of these high mountains, much is said of the influence of the rarified air. In Cotopaxi I did not suffer any difficulties of this kind. It is always to travel in such high altitudes that this difficulty exists, though I do not think that it increases with the height. In other mountains and at less heights, I suffered principally from a short headache, and considerable difficulty of breathing.

My major-domo and the peons who accompanied me to Cotopaxi suffered all these ill effects; and one of them, a very powerful man, remained in the middle of the road vomiting, but none of them suffered nose-bleeding.

That animals are subject to the same things, was demonstrated by the difficulty with which they traveled on heights greater than 4,000 meters; and my dog, which generally appeared not to suffer, reached the crater moaning, and it was necessary to animate him, so that he should not remain behind.

The time necessary for the trip is as follows, although it could be done in two days:

NOVEMBER 27.

	Meters.
Left Santa Anna at seven o'clock	3,238
Rio Cutuche	3,150
Foot of the Ami Hill, 8°.1 C	3,547
Beginning of sand, 8°.8 C	3,890
Manzanguaico, 5°.8 C	4,195
Tent, snow-limit	4,627

NOVEMBER 28.

Left tent at 6.45, 2°.0	4,627
Begining of sand, 0°.8	5,559
Beginning of lava, 0°.2	5,712
Southwest peak	5,992
Left peak	5,992
Arrived at camp	4,627

NOVEMBER 30.

Tent	4,627
Santa Anna	3,238

Very little remained to be seen in Cotopaxi. In a trip to Limpiopungo I examined the rest of the western side up to the lava of Yansuache, which I had visited at the beginning of this year; and in a trip to Mucucuchu I examined the southern part of the mountain, which, by the way, is interesting for the peak called Cabeza de Cotopaxi.

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This peak is composed of several thick bands of agglomerate and tophus scoria. This tophus does not form part of Cotopaxi, and belongs to an older volcanic formation, as also the lava and rocks which cross the Hondon de Sigsihuaico. It is possible that these rocks are part of the same volcanic mountains, which, now being covered with the more recent eruptions of Cotopaxi, do not admit of an examination except in a few points. The ancient eruptions produced much obsidian, which is not to be found in the lava of Cotopaxi, and it seems that the deposits of pumice-stone near Latacunga proceed from the same eruptions. The southern and western brows of Cotopaxi are less interesting than those of the north and east, because the prevailing wind, the east, has thrown the ashes and sand from every eruption upon these parts, while the north and east are almost clear of sand, so that the lava that composes this mountain can be observed. The extension of the ice is also much less on the western side, and the circumstances are favorable to study the formation of the inundations. But none of them have thrown up so much lava as the eruption of 1854.

The modern lava has pieces of quartz buried in it, and in some places they are to be found by thousands. And this is not to be wondered at, because the miraculous slate is found very near Cotopaxi, forming the mountains of Cubillan and Carrera, and there is no doubt but what it also exists under the lava of Cotopaxi.

With a visit to the "Morro," near Chalupas, I concluded my explorations, and the 9th of December I left again Santa Anna to examine the western Cordillera, and look for the "Quilotoa," in which trip I spent three weeks.

But I have already abused your excellency's patience too much, and I do not dare to continue my report. I will only say that, thanks to the governmental order, I was assisted with much zeal by the authorities of the towns, with the single exception of the lieutenant of Chugchelan, who thought that a governmental order gave him the right to *explore* the person introduced, so that I was obliged to take him in my service, without which I should have remained without men.

I have entered a formal complaint against that employé to the governor of the province of Leon.

If I have praised the authorities of the smaller towns, what will I say of the governor of Leon.

Mr. Alcazar received me more like a friend than a traveler; and while on the one hand he afforded me his official protection, on the other, he and his lady made me forget that I was a stranger in this country. Mr. Alcazar has been so kind as to ask for me a special order from the governor of Tunguragua so that I can go to Llaganate.

I have aranged my trip with the assistance of the jefe politico of Pillaro, and tomorrow I shall leave with twenty-five men for the Cerro Hermoso with the intent of clearing up the mystery of the volcanoes of Mr. Guzman.

Allow me to repeat at this point my acknowledgment for the high protection and kindness that your excellency has deigned to favor and honor me with.

I am, &c.,

W. REISS.

Height of several points in this report.

	Meters.
Hacienda of Chisinche	3,200
Hacienda of Chaupi	3,365
Cruzloma	4,365
Cutucuchu	4,149
Snow-level of Chaupi	4,448
Limit of snow-level of southwest side	4,653
Tisisiche Mountain	4,241
Town of Toacaso	3,261
Cunuchoquio	4,155
Snow-level of northwest side	4,771
Pass between the two mountains	4,800
Pass between the two mountains, west side	4,600
Mountain limit, east side	3,799
Beginning of sand	4,886
Cuniquingue plain	3,551

CHAUPI MOUNTAINS.

Propunteo Peak	4,074
Hondon de San Diego	3,548
Pass between Iliniza and Chaupi	3,772
Pass between Rimañigui and the Chaupi Mountains	3,604
Lastana de Tiopullo	3,238
Pastocalle	3,150

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CORAZON.

	Meters.
Peak	4,816
Bottom of hollow	3,612
Pass between Zorrocuchu and hollow	4,016

CALLO.

Callo Mountain	3,279
Hacienda of San Augustin	3,179

COTOPAXI.

North peak	5,943
Southwest peak	5,922
Snow limit	4,627
Upper part of lava of 1854	5,559
Rio Cutuche in San Joaquin	3,150
Rio Cutuche in Churupinto	3,420
Rio Cutuche in Chuto	3,479
Mulalli	3,077
Barrancas hacienda	3,295
Barrancas River	3,220
Mujunucuchu	3,579
Bercha Hill	3,740
Cunturbamba River	3,562
Sauripamba Hill	3,892
Beginning of sand, south side	4,246
South foot of the Cobeza del Cotopaxi which is also the snow-limit in this part of the mountain	4,629

List of peons who accompanied me to Cotopaxi and who may serve as guides:

From Mulaló: Manuel Espino and Juan Ortega, almost to peak; Liman Prado, Manuel Ortiz, Agusteon Prado, Luciano Prado, Eubio Beltran, Ildifonso Villareal, Francisco Santa Cruz, and Fidel Freire, to tent.

From Quito: Vicent Roman, almost to peak; José Roman and Mariano Sigeha, to tent; and the Colombian, Juan Bautista Anaya, married, in Quito.

The Quito peons are preferable to those of Mulalo, as they have traveled a long time with Dr. Stubbell and with me, consequently they, being accustomed to these trips, can make camp and do everything that is necessary.

No. 91.

Mr. Wing to Mr. Fish.

288.] UNITED STATES LEGATION, QUITO, ECUADOR, *February* 28, 1873. (Received April 18.)

SIR: As an evidence of the rapidly increasing value of the North American traffic of this country, allow me to append an extract and translation (1 and 2) from a late commercial review from the eminently respectable house of Messrs. Ribon & Muñoz, of New York City.

It will be observed that in the matter of caucho the North American importations of Ecuador have attained the first rank and reached a very large figure.

As I have previously stated, the coffee of Ecuador is of a most excellent quality, and I hope to see it largely imported into the United States during the next year or so.

Of course these matters depend in a considerable part upon the development of the avenues of trade actually in the country.

But as I hope to see these constructed by Americans, I believe that this fact will have a substantial effect upon the direction of commerce.

Also as proving that the great progress being made by the present

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government of Ecuador is beginning to be well recognized, I attach (3) an extract from a late Kingston, Jamaica, paper.

I need scarcely add that there is no foundation for the imputations of an intended interference in the affairs of any of the states of Colombia by President Moreno. I venture to assert that in no part of Spanish America to-day are American sympathies more vivid, or a disposition to cultivate American commercial relations stronger, than in Ecuador.

I am almost tempted to say that these sentiments are not equaled in any other section of Spanish America.

I am, &c.,

E. RUMSEY WING.

[Inclosure 1.—Translation.]

Caucho free. The total importation of caucho into the United States reached 11,360,927 pounds, of which 10,986,029 pounds were sold; remaining on hand the 31st of December, 874,900 pounds.

The total importation is as follows:

	Pounds.
Ecuador, per the Isthmus of Panama	5,694,619
Brazil	5,182,751
East Indies	378,200
Carthagena	267,888
Mexico	139,590
Other places	197,881

The caucho from Ecuador, per Isthmus, which is known here by the name of Central America caucho, already figures in the first line, when in the year 1870 hardly 2,761,223 pounds were imported, and in 1871, 3,403,205 pounds.

The Brazil caucho, known here as the Parà, is almost stationary; it being 5,032,538 pounds in 1870, and 5,182,751 pounds in 1872.

The stock on the 31st December, of Colombian and Ecuadorian caucho was 305,000 pounds. The steamer Henry Chauncey, which arrived on the 5th, brought 397,000 pounds, of which we received 188,000 pounds, and though we held one-half of the stock, some days since, we suspended the sale, as we feared that the market would not be as firm as we hoped, and the rest of the caucho was distributed among a dozen other houses; notwithstanding it has a better tone now, and the sales have been made at 58, 58½, and 59 cents, at four months, and we have even sold selected esmeraldas at 60 cents. The last telegraphic advices from England are favorable, and with firmness on the part of the holders the price would reach 60 cents.

[Inclosure 2.]

(Extract from a Kingston, Jamaica, paper.)

Ecuador.

* * * * * * *

The Cauca revolution is progressing in favor of the church party, who are expecting assistance from President Moreno. The government engineer (Mr. McLellan) has gone to the United States to study the narrow-gauge system, with the idea of constructing such a line along the public road between Linambe and Pueblo Nueva. General Salazar has gone to be minister plenipotentiary of Ecuador to the courts of England, Germany, Italy, and France. The progress this republic is making in the development of its natural resources and in the establishment of great public works, the conception of a single mind, (President Moreno,) is perfectly marvelous—universities, public roads, light-houses, and dredging-machines—all within a year, and now a railway is determined on between Guayaquil, the sea-port, and Quito, the capital.

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No. 92.

Mr. Wing to Mr. Fish.

No. 289.] UNITED STATES LEGATION, QUITO, ECUADOR, *February* 28, 1873. (Received April 18.)

SIR: In a late issue of a leading American journal, I see a statement relative to a newly appointed diplomatic agent in South America, to the effect that "he will probably go by way of Europe, in order to secure some trade statistics, with a view to their use in the future. It is his purpose to give particular attention to the causes which have diverted the South American trade to Europe, and the means to restore it to the United States."

I thoroughly applaud this purpose. But at the same time I feel that the remedy for the evil in question is not to be sought in Europe.

I feel, likewise, that the Department has been kept fully advised in regard to this matter by others of its agents resident in Spanish America for some years past.

Information on this subject, therefore, will not depend upon the statistical researches of any new agent.

If any doubt yet exists as to the means requisite for the restoration of this Spanish-American commerce, the decline of which naturally dated from the late war of the American rebellion, please allow me to state them plainly and briefly.

England and France subsidize steam lines, whereas the United States have so far failed to follow the successful example thus afforded them.

English, French, and German steam lines of the most efficient type are to be found on the Spanish-American coasts, maintaining quick communication with their respective countries.

English and German carrying vessels are the cheapest carriers on the ocean, and abound in every Spanish-American commercial port.

American customs duties are very heavy, as a matter of necessity and national honor; and hence it is an incontrovertible fact that many Spanish-American buyers are literally forced into European markets, whereas they would, other things being equal, prefer our own.

Articles purchased in an American market, in seeking the Pacific coast, must come by steam transportation, whereas European carrying vessels are always ready for orders filled in Europe.

This is the whole question in a nut-shell.

Our lucrative inland commerce engrosses likewise the capital and energy of our maritime cities as yet, and individual effort is not sharply spurred to seek foreign fields of traffic.

A far-reaching policy of commercial enterprise upon the part of individuals can be fostered by a liberal system of subsidies and privileges upon the part of the Government.

Herein lies the true source of the revival and re-invigoration of American maritime interests.

The broad results will amply repay the vigorous inauguration of such a system, and the petty quirks and cheap logic which have prevented its adoption hitherto will never be resurrected in the light of vindicated truth and substantial profit.

The establishment of American shipping connections is the great desideratum. The matter of imposts will amount to nothing when such lines are afforded. It is a simple and practical question. As naturally as rivers seek the sea will Spanish-American commerce turn to North American marts when the proper aqueducts are afforded.

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The law of commercial gravitation is in our favor, and it is a law of simple application, with most bounteous returns upon its very front.

I have, &c.,

E. RUMSEY WING.

No. 93.

Mr. Wing to Mr. Fish.

No. 300.] UNITED STATES LEGATION,
Quito, Ecuador, March 20, 1873. (Received May 5.)

SIR: Recently at a meeting of certain parties in Europe holding old Spanish-American bonds, Honduras, Nicaragua, Venezuela, and Ecuador were strongly denounced as having acted in bad faith, &c., &c.

I subsequently sent a copy of the "Panama Star and Herald" to the Department, containing a long editorial upon this subject, in which Ecuador more especially was assailed in this regard.

At various times I have also been applied to by American holders of such bonds for their collection, but inquiry has invariably elicited the information that all responsibility therefor was declined and denied by this government. In "El Nacional," the government organ, of date March 19, I find the article, (1,) of which I inclose a translation, (2.)

Herein is set forth the Ecuadorian view of the whole matter, and, as such, it will doubtless prove valuable and interesting to the Department.

I have, &c.,

E. RUMSEY WING.

[Inclosure 1.—Translation.]

(Extract from El Nacional, March 19, 1873.)

ECUADOR AND THE PANAMA "STAR AND HERALD".

The author of the editorial in the "Star" manifests some surprise at the not very flattering remarks toward this republic set forth in the report of a meeting in London of the English holders of foreign bonds.

With the purpose of doing away with this surprise, we have resolved to write the following lines:

Through the mere fact that Ecuador once formed part of Colombia, and notwithstanding that none of the loan raised in London appertained to it, still it had to accept the enormous burden of seven millions at six per cent. interest.

When Colombia was divided in three sections, Ecuador could not fulfill the payment, as the propositions advanced by the creditors were utterly unacceptable.

In 1854 the government of Ecuador concluded a contract with Mr. E. Mocatta, the attorney of the bond-holders, and in the twenty-eight articles the nation was sacrificed and became a perpetual serf to its foreign creditors.

By article first of that memorable contract, the sum of one million eight hundred and twenty thousand pounds sterling was recognized in favor of the holders of the Colombian bonds, together with four hundred thousand pounds sterling of interest which had fallen due. That is to say, that to the seven millions of the first loan two millions more were added. Upon this enormous amount, burdened by the addition of interest due, it was agreed to pay six per cent. interest, so that in interest alone Ecuador would be compelled to pay more than a half million annually.

It did what none of the other sections of Colombia has done. It delivered to the foreign creditors the eight hundred thousand dollars which Peru paid as part of its debt to Colombia.

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The fourth part of the custom-house at Guayaquil was indefinitely promised to be delivered into the hands of the creditors, and as this twenty-five per cent. of the custom-house never covered even the ever-increasing interest, Ecuador could not flatter itself with the hope, we will not say of arriving at a complete settlement of its debt, but of the interest continually falling due.

By articles 9 and 14 of the same contract, Ecuador was to pay besides an annual stipend of a thousand dollars to the commissioner of the holders of the bonds in Guayaquil, and to bear the expense of exchange and the remission of the funds to Europe.

This retrospect is enough to demonstrate to the judgment of all right and impartial men that the contract with Mr. Mocatta removed all hope of payment, inflicted on the republic of Ecuador a serious infliction, which it was impossible to support for so long a time.

From 1855 to 1869, more than two million dollars have been given to the foreign creditors, and the original debt, instead of decreasing, is increased by more than a million.

The government, desirous of clearing up the complicated fiscal situation, in virtue of which, with the small income of the treasury, it had to arrange for the expense of its own maintenance, and at the same time to effectuate the payment of its native and foreign debt, it was indispensable to suspend the payment of the interest of the foreign debt with the twenty-five per cent. of the receipts of the custom-house.

By this action no bad faith can be attributed to it, since the suspension proceeds from the right that the enormous damage arising from a contract made with haste, and the pre-eminent necessity of attending to its own expenses, gave it; nor ingratitude either, because the amount of the debt was not used in anywise for its own advantage, and which merely had its origin in the fact that Ecuador once formed part of Colombia.

Colombia, whose conduct in this matter has not surprised the editor of the "Star," also proceeded like Ecuador, urged by similar motives, as will be seen in the following lines written in 1861, by the Secretary of the Treasury, in a memorial on the foreign debt:

"In effect, how would the credit of the republic have advanced by burdening the custom-house with the enormous sum of one million thirty-five thousand two hundred and twelve dollars to pay the interest of the foreign debt which it owed up to December, 1855, when that interest continued increasing, without there being other means to arrange it, and at the same time the custom-houses having to produce the funds for the interior floating debt and the expenses of the administration.

What hope was there of paying the foreign debt, when, in virtue of the emission of bills, hardly a part of the interest of the debt was paid, and when the partial payment, to which twenty-five per cent. of the import duties was applied, could not be effectuated in less time than one hundred years.

When and with what resources could the treasury satisfy the other interests due and falling due successively to the end of re-establishing the foreign debt upon a firm and permanent basis?

Such were the grave difficulties that would have arisen had the present administration complied with the last act on this matter. * * * And it has rather desired to cheerfully meet the affronts of the creditors and the passionate and unjust censures of the press. * * * * * And to continue working in persuading the same creditors that, respecting them and the nation, it was best to conciliate their respective interests, receiving and paying whatever the situation of the debtors and creditors permitted.

This is the only method of re-establishing the credit, and as such was advised by good faith, and has ever been the constant plan that the administration proposed to follow in this matter.

The views of Ecuador are identical, of whose good faith the foreign creditors must expect that, so soon as the invincible difficulties that obliged it to suspend delivery of the fourth part of the custom-house duties have disappeared, it will enter with them into equitable arrangements that will lead to a definite solution of the debt.

No. 94.

Mr. Wing to Mr. Fish.

No. 309.] UNITED STATES LEGATION,
Quito, Ecuador, May 14, 1873. (Received June 9.)

SIR: Referring to my dispatch. No. 175, I have the honor to submit the information contained in the clipping (1) from a late Panama Star

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and Herald, as confirmatory to some extent of the opinions therein contained.

The Indian question seems to be a difficult one, even in our own powerful and populous country.

I believe that it is eventually destined to become one of much graver import to the comparatively weak republics of South America.

I have, &c.,

E. RUMSEY WING.

[Inclosure 1.]

(From "Panama Star and Herald," of April 26, 1873.)

ALLIANCE BETWEEN THE ARAUCANIAN AND PAMPAS INDIANS.

The Argentine consul in Chili has notified his government that he had received tele grams announcing that a commission of the Indians of the Pampas had gone to solicit an alliance with the Araucanian Indians, in view of carrying into effect a vast plan of invasion on the frontiers of the Argentine Republic. The governor of Mendoza confirms the rumor, and states that the alliance had been entered into and signed by the principal caciques of large tribes at the town of Mercedes, in the province of San Luis. The telegram, dated from the Villa de Mercedes on the 12th ultimo, says that the governor of Mendoza had been advised that caciques from the Pampas had gone to Chili to give invitations for a great invasion. As to the other tribes concerned in this project, the Argentine minister in Chili had transmitted information to say that the Indian Hemeque, the cacique of a horde of savages of the Argentine Pampas, was ready with Quilapan and Quilameque, and that several palavers had taken place between them. The object of the visit of the transandine Indians was to obtain from the two above-mentioned caciques all the lances they could spare to go to the other side (Argentine Republic) and aid them in making an attack on the national army, which had routed the Indian forces of the cacique Calfucura, the brother of Hemeque. Quilapan and Quilameque, and other transandine tribes, had entered into the plan with enthusiasm, but on two indispensable conditions: first, a month in which to make preparations and get in their crops; the second, that, on defeating the Argentine army, Hemeque and his brother Calfucura should bind themselves to come over and assist the Araucos, the Malleco, the frontier line of Chili. The force which the Chilian caciques can raise is calculated at more than 3,000 lances. Other notices were received in Junin from the commandante of the north and west of Buenos Ayres and south of Santa Fé, at the date of the 11th ultimo, that the large Indian tribe of Salinas Grandes were also in movement, with all the appearances of preparing for some strong invasion.

XIII.—FRANCE.

No. 95.

Mr. Fish to Mr. Washburne.

No. 450.] DEPARTMENT OF STATE,
Washington, October 19, 1872.

SIR: Your dispatch under date of the 25th of September last, No. 689, inclosing memorial and other papers of Charles Holzer, relative to his imprisonment at Lyons, in August, 1870, on suspicion of his being a Prussian spy, has been received.

It is the settled policy and practice of this Government to extend the most ample protection to citizens of the United States who may be resident or sojourning in the territories of foreign governments.

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Citizens of the United States, in common with other foreigners who were unfortunate enough to be residents of France during the period to which Mr. Holzer's memorial refers, were rendered liable to certain inconveniences which seem to have been unavoidable under the circumstances, and are inseparable from a condition of war such as France was then in. Such a state of society as then existed in France demanded from foreigners who were at the time resident there the utmost prudence and caution; whether Mr. Holzer exercised such prudence does not clearly appear from the papers which he has placed on file. His case does not seem to present any feature not common to the cases of many citizens of the United States who were arrested in France during that period on similar grounds, and under circumstances at least as favorable as those which surrounded Mr. Holzer.

You will bring the views presented by this instruction to the attention of Mr. Holzer, and while you are authorized to assure him of the earnest disposition of this Department to afford him the most ample protection, you will at the same time show him that the fact by itself of his arrest and detention under the circumstances detailed in his memorial, is not sufficient to warrant the interference of the Government of the United States in his behalf. Mr. Holzer may be able to present a case upon which he might properly invoke the action of the Department. More explicit information upon the following points is desired:

Did Mr. Holzer, at the commencement of hostilities between France and Prussia, formally and publicly apprise the authorities at Lyons, and especially the committee of public safety, of his American citizenship?

Did he abstain from all manifestations of sympathy, either by word or deed, in favor of Prussia during his residence in Lyons after the breaking out of hostilities?

Was he engaged in permanent and regular business in Lyons at the commencement of the war and thence up to the time of his arrest?

Has Mr. Holzer made any application to the local authorities at Lyons for redress or compensation, and has he or does he intend to resume his residence in Lyons?

If Mr. Holzer were able to give satisfactory answers to the foregoing questions, it might materially change the aspect of his case as now presented.

I am, &c.,

HAMILTON FISH.

No. 96.

Mr. Fish to Mr. Hoffman.

No. 467.] DEPARTMENT OF STATE,
Washington, December 28, 1872.

SIR: Referring to Mr. Washburne's dispatch No. 689, of September 25, 1872, and to the reply of this Department of the 19th of October last, No. 450, I have now to state that the subsequent communication of Mr. Holzer, forwarded in your dispatch of the 12th ultimo, does not change the aspect of the case from that in which it appeared when first presented.

The precautionary measures adopted by the French government during its late war with Prussia, in reference to foreigners found within its

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territories, do not seem to have differed in any substantial particular from those to which other governments have felt it necessary to resort under similar circumstances, especially when the country in which such war measures are found to be necessary is itself the theater of hostilities. In the enforcement of such measures mistakes must often occur, and it will sometimes happen that in the execution of orders for carrying them out the vigilance and zeal of subordinates will involve treatment of the person arrested which, under ordinary circumstances, would be considered unnecessarily harsh if not cruel; but it does not thence follow that the government which has felt compelled to resort to such measures in the interest of their country are to be held to account for the consequences of every such mistake.

Mr. Holzer, according to his own statement, was fully informed in regard to the system of surveillance on foreigners which had just then been instituted by the committee of public safety. Common prudence would have dictated the propriety of Mr. Holzer reporting himself to that committee, and (having in his possession the best evidence of his American citizenship) obtaining from this highest local authority such formal recognition of his national character as would have afforded to him certain protection against arrest and imprisonment. Instead of pursuing this obviously safe course, he contented himself with the verbal assurance of the prefect, a subordinate officer. Consequences followed which, however much they are to be regretted, Mr. Holzer must himself be held in some degree responsible, for so soon as his imprisonment was brought to the attention of General Osterhaus, the consul of the United States at Lyons, that officer promptly took steps to secure his release. Mr. Holzer's own words best state the result of the consul's efforts: "The next day he claimed me, and thus secured my release."

This action of the consul was in complete accordance with the uniform policy of this Government in extending protection to citizens of the United States, wherever they may be. No reason is perceived, however, for further action by this Government in Mr. Holzer's case.

I am, &c.,

HAMILTON FISH.

No. 97.

Mr. Hoffman to Mr. Fish.

No. 734.] LEGATION OF THE UNITED STATES,
Paris, December 19, 1872. (Received January 6, 1873.)

SIR: A very interesting debate took place in the assembly on Saturday last upon the right of petition, and especially upon the petitions now in circulation for the dissolution of the assembly. The ablest orators were heard on both sides, among others M. Gambetta and M. Louis Blanc. The session lasted far into the night, and was closed by an able and eloquent speech from M. Dufaure, the minister of justice. The government associated itself closely and unequivocally with the Right, admitting the right of petition in theory, but surrounding it with such obstacles as very materially to trammel it, and above all prohibiting the signing of petitions in wine-shops, the only places in France where the people congregate. The combined vote of the government and conservatives as against the Left was about in the proportion of five to two.

This renewed alliance of the government with the Right, after their bickerings and coldness of the last few months, was exceedingly satis-

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factory to the conservatives, and proportionally disagreeable to the Left. It was received with cheers and great enthusiasm by the Right and Right Center. Its effect was seen a few days subsequently in the committee of thirty, when M. Thiers appeared before it. He was received with the greatest deference and listened to with the most profound attention.

But it was not only in the bearing of the Right toward M. Thiers that the renewal of the "old love" was apparent; it was to be seen in the gentle words and extreme moderation of the views expressed by M. Thiers. You may remember, in connection with one of my former dispatches, that he had with difficulty carried an amendment instructing the committee of thirty to consider the relative attributes of the executive and legislative powers in connection with ministerial responsibility. In his late interview with the committee, M. Thiers stated that all he insisted upon was that they should fully and thoroughly examine and discuss all these questions; but that if, after such examination and discussion, the majority of the committee should see fit, as he expressed it, to draw but one article from the bag, he should have nothing to say, though that solitary article might be ministerial responsibility. He went on to urge that ministerial responsibility did now exist in its full integrity—witness the prompt resignation of M. Lefranc—and that the article that ought to be drawn from the bag, if but one was to be drawn, was a second chamber. M. Thiers then urged, with great adroitness, that he pressed the formation of a second chamber in the interest of conservatism, for if hereafter, as might well happen, a radical assembly should be returned, there would be no safety for conservatism except in a second chamber, acting in accord with the executive power and armed, in connection with it, with the right of dissolving the assembly. In the course of his remarks, M. Thiers referred as usual to the Senate of the United States, and stated that the principal function of that body was to deal with foreign relations. The veteran historian appears to have studied the ten modern constitutions of his native land considerably more closely than the solitary one of the United States.

I have, &c., &c.,

WICKHAM HOFFMAN.

No. 98.

Mr. Hoffman to Mr. Fish.

No. 739.] LEGATION OF THE UNITED STATES,
Paris, December 30, 1872. (Received January 18.

SIR: Referring to your dispatch No. 448, of October 9, upon the subject of the duties imposed in France upon agricultural implements manufactured in the United States, I have the honor to forward to you herewith a translation of a letter I have received from M. de Rémusat, in answer to my letter of October 22 to him upon this subject.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure.—Translation.]

M. de Rémusat to Mr. Hoffman.

VERSAILLES, *December* 28, 1872.

SIR: By the letter which you did me honor to write on the 22d October last you informed me that the manufacturers of agricultural implements in the United States have complained to the Federal Government that their manufactures are subjected in

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France to a higher duty than similar articles manufactured in England. At the same time you expressed the wish to be informed if this difference really exists, and what is the reason for it. You asked, besides, if the new treaty of commerce between France and Great Britain would modify, in any way, the duties on these articles.

The inequality of which American industry complains arises from the fact that the convention of October 12, 1860, between France and England, stipulated for a special tariff for implements of British manufacture, while no arrangement of this kind having been made between France and the United States, the products of the Union, like those of all other countries not parties to this contract, are subject to the duties of our general tariff, as fixed by the law of April 18, 1857.

As regards the dispositions of the new treaty of commerce between France and Great Britain, they make no changes in the tariff on agricultural implements constructed exclusively of brass, iron, and steel. Those in whose construction there enters either wood or copper will pay, in addition to the duties they now pay, a surtax corresponding to the duties imposed upon undressed ("brut") wood or on raw copper by the law of the 26th of July last.

I have the honor, sir, to communicate to you these explanations and information, to obtain which my department has been obliged to communicate with the ministry of the finances.

Receive, sir, &c., &c., &c.

DE RÉMUSAT.

No. 99.

Mr. Washburne to Mr. Fish.

No. 748.] LEGATION OF THE UNITED STATES,
Paris, January 10, 1873. (Received January 27.)

SIR: It was on my arrival this morning in Paris at 5 o'clock that the messenger of our legation informed me of the death of the Ex-Emperor Napoleon III at Chiselhurst at 12 o'clock yesterday. The news arrived here so late in the afternoon that there was but little appreciation of the event yesterday. This morning, however, all the Paris papers have notices of the event, which is treated of in different ways by different journals. The death, sudden and unexpected though it was, really has created but little impression, excepting so far as it may affect the political situation of France. It is undoubtedly a great blow to the imperial party, and one that might lead to its practical disappearance as one of the parties of France, and, in that sense, it may be said to have brought a measure of relief to other parties.

In speaking of the death of the Emperor, the "Constitutionnel" says:

It is difficult to define in a few words the import of an event where all circumstances should be taken into consideration, inasmuch as the event has a tendency considerably to modify the position of various political parties. We may more correctly express a judgment on the man and the sovereign. According to our ideas the government of Napoleon III has been full of results, all our disasters notwithstanding. The history of France has on record a period of prosperity. Order in matters of honor and interest, progress in constitutional matters, development of national wealth, have under the influence of a liberal and economical legislation constituted our greatness.

* * * * * * *

Napoleon held a position in Europe and throughout the world during a period of twenty years. His policy, and current events which marked his administration, occupy an important page in the history of nations; we must learn to appreciate loyalty, and must not forget the noble woman and the son of the sovereign in exile.

The "Paris Journal" says:

A portion of France labored under the belief that the Emperor, his errors and reverses of fortune notwithstanding, would be called upon again to intervene in the affairs of our country. It was thought that he would a second time cause the *bad* to tremble, and to re-assure the *good*. Providence willed otherwise. * * *

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The news has called forth great emotions. We do not refer to the joy evinced in the hearts of the rabble. Those joys have the tendency to honor the deceased sovereign.

* * * * * * *

It may fairly be said that the Emperor had not only a place in the hearts of his partisans, but likewise with those who were and are the friends of order. This favor outlives the memory of the dead man; we often have met with legitimists, Orleanists, and moderate republicans who expressed, when not overheard by others, the idea, "Perhaps he will, after all, some day solve our difficulties."

The "Petite Presse" says:

The Emperor has left a testament willing certain rules regarding a regency, and fears that the Empress will become involved in a struggle with the Prince Napoleon, (Jerome,) who has not abandoned, nor will abandon, *his* projects in respect to a regency.

The Siecle is silent, but publishes a letter from a medical journal referring to a report signed by Professor G. See, dated July 3, 1870, setting forth the dangerous state of the Emperor's health. The fact that this report has been concealed throws an immense amount of responsibility on medical men. The report was found among Dr. Conneau's papers seized by the September government.

The "Rappel" and the "Republique Française" blame in unmeasured terms the ex-Emperor and the *Spanish woman*. "Two years ago the event would have caused unmeasured joy; to-day, it is of no importance. On his tomb shall be written 1850—1871. At the former date he ruined the republic; at the latter, he ruined France. But France cannot be killed! The republic will resuscitate!"

The "Gaulois" appears with a black cordon, and has a few short paragraphs of regret.

The "Figaro" says:

Setting aside politics, we may say a few words about the man and the sovereign. Napoleon III has governed France during twenty-two years and thrice endorsed by the people. We would blush if we had to confess that a bitter word has been said by us against the fallen empire; we have to-day only sentiments of profound consideration.

The "Debats" says:

With the Emperor the empire died. If two or three years ago the news had been sent through the world, emanating from the Tuileries, it would have caused immense commotion; but for a long period deaths of sovereigns have not occurred in France. With one exception, during the past century, sovereigns died on foreign soil. It is no misfortune, and the death of the present Napoleon has little or no significance.

The "XIX Siecle," "Evenement," and other papers, speak in a mild tone, none attaching much importance.

The Empress expressed a wish that at Paris the funeral services might be performed at the same day and hour as in England.

I have, &c.,

E. B. WASHBURNE.

No. 100.

Mr. Washburne to Mr. Fish.

No. 752.] LEGATION OF THE UNITED STATES,
Paris, January 17, 1873. (Received February 4.)

SIR: There is nothing in the political situation at this moment that requires to be treated of in a dispatch. The "commission of thirty" is proceeding with its labors, and there is now greater harmony between it and M. Thiers than there has been. The public is looking forward

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with great impatience to the report and to the action thereon by the assembly.

There has been a wonderful absence of any demonstration over the death of the ex-Emperor, either in Paris or in France. I think the great parade made in England over the event has excited considerable feeling in government circles here.

I called to pay my respects to M. Thiers, at Versailles, last night, and was received by him very cordially and congratulated on my safe return. I thought he looked a little fatigued and worn. He promised to dine with me on the 22d proximo, the "Birthday of Washington."

I have, &c.,

E. B. WASHBURNE.

No. 101.

Mr. Washburne to Mr. Fish.

No. 758.] LEGATION OF THE UNITED STATES,
Paris, January 31, 1873. (Received February 14.)

SIR: Since the adoption of the recent military law in France the government is holding every person owing military service to a strict obligation. Numbers of Frenchmen by birth, naturalized American citizens, are coming over here, and if it is thought that they owe service, they are at once arrested for what is called "insoumission," and thrown into prison. Application is then made to us to get them discharged.

Under the ruling of the French government, if it should appear that the party has been naturalized for over three years, it is held that such "insoumission" is covered by prescription, and after many delays and much suffering and expense he is released. But in cases where the party has not been naturalized for this length of time he is adjudged guilty of "insoumission;" they refuse to set him at liberty, and he is subjected to the punishment which the law of the country prescribes.

This matter does not seem to be perfectly understood by our naturalized French citizens, and they appear to consider that an American passport protects them against everything.

I have thought that you might consider it well to let it be known through the Associated Press what the true state of the case is, that these people may be put on their guard, and not return to their native country and subject themselves to arrest, and perhaps punishment.

This whole matter is fully discussed in your circular dated Washington, May 2, 1871.

We have had no less than three of these cases since my return, and only one of the parties has been naturalized the requisite length of time.

I have, &c.,

E. B. WASHBURNE.

No. 102.

Mr. Washburne to Mr. Fish:

No. 769.] LEGATION OF THE UNITED STATES,
Paris, February 13, 1873. (Received February 28.)

SIR: On Sunday last I received a dispatch from Mr. George de Pardonnet, from Belfort, to the effect that he was an emigration agent for

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the State of Kansas, and that, having advertised a lecture at Belfort upon the subject of the advantages presented by that State to the emigrant, his lecture had been interdicted by the minister of the interior, and inquiring what he should do.

I telegraphed him that I would answer him by letter; and the next day I addressed him a letter, a copy of which I inclose herewith, and which will explain itself.

It seemed to me that this action of the French government, howsoever illiberal it might be toward us, was a matter of its own, with which we had no right to interfere. At any rate, as I suggested to Mr. Pardonnet, I thought it better to submit the matter to your judgment whether I should remonstrate with the French government in regard to its action in this respect, or whether you agree with the views which I expressed in my letter to Mr. Pardonnet.

I have, &c.,

E. B. WASHBURNE.

[Inclosure.]

Mr. Washburne to Mr. Pardonnet.

LEGATION OF THE UNITED STATES,
Paris, February 10, 1873.

SIR: I have received your telegram of yesterday.

In reply, I desire to state that for the present there is nothing to be done but to submit to the order of the minister of the interior.

The action of the French government in this matter is nothing new. It has always discouraged emigration, and now that it is so anxious to retain its young men for the military service, it is especially jealous in this respect.

While I cannot doubt the right of the French government to pursue the course it has taken in this affair, I can only regret its action, and it is my purpose to bring the matter to the attention of Mr. Fish. Should he see fit to instruct me to take any action on the subject, I shall not fail to inform you of it. Without such instructions, knowing as I do the uniform action of the French government in this respect, I think it better for me not to interfere without official advice.

Very respectfully, &c.,

E. B. WASHBURNE.

No. 103.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 772.] LEGATION OF THE UNITED STATES,
Paris, February 21, 1873. (Received March 8.)

SIR: The abdication of King Amédée and the proclamation of the republic of Spain have created less excitement in Paris and France than might have been supposed. The news of the abdication only had the effect of reducing largely, at the Bourse, the value of Spanish securities, already very low down, and slightly affecting French securities. Since the proclamation of the republic, followed by the peaceful situation in Spain, Spanish securities have advanced a little, and French securities have got back to the point at which they were when the news came that King Amédée had determined to take a ticket-of-leave.

The political question which has been most talked about for the last week or ten days has been the action and report of the commission

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of thirty, as it is called. The commission closed up its sittings by rejecting a proposition presented by the minister of justice, M. Dufaure, and which M. Thiers had insisted upon. This was considered a sort of defiance to M. Thiers, particularly when coupled with the fact that the Duke de Broglie, whose hostility to M. Thiers has been quite pronounced, was made the "reporter." If the rejection of the article of M. Dufaure were to be insisted on, without the adoption of something equivalent, it was known that M. Thiers would appeal to the assembly and to the country against the commission, and then the question arose, would the commission yield? Public opinion was divided as to the result; but those who knew the character of the commission best, as well as the character of the opposition to M. Thiers, in and out of the assembly, predicted that the commission would find an escape from the position in which it had placed itself. They were right, for the commission was called together again yesterday, and adopted a proposition as a substitute for the Dufaure article, which the Debats of this morning says places the government and commission in accord.

Should this prove to be so, this "incident," as the French call it, which has been pestering the country for more than two months, may be considered as "terminated." Should such be the fact, there is every prospect of a season of as much quiet as the country is capable of under exististing circumstances.

The payment of the last installment of the indemnity is likely to be anticipated, and the month of September will probably see the last son paid and the Prussians out of the territory. This is really a great feat, and demonstrates the enormous wealth of France. And what is remarkable, after all of these payments, and all the drain there has been upon the country, the paper of the Bank of France is to-day equal to gold, less about one-eighth of one per cent.

* * * * * * * *

I have, &c.,

E. B. WASHBURNE.

P. S.—February 21, 1873. There is no longer any doubt of the complete accord between M. Thiers and the "commission of thirty." Indeed, the friends of M. T. claim that he has got more than was demanded in what is known as the Dufaure proposition. It seems that the fraction of the commission known as the "center right," consisting of the Duke de Broglie, the Duke d'Audriffet-Pasquiers, and others, united with the "left" and "center left" fraction and carried the proposition against the "right," which was finally adopted. This action has had a good effect, and there was quite a "hausse" at the Bourse yesterday.

E. B. W.

No. 104.

Mr. Fish to Mr. Washburne.

No. 483.] DEPARTMENT OF STATE,
Washington, March 1, 1873.

SIR: Your No. 769 of the date of the 13th February last has been received.

The interference of the French government with Mr. de Pardonnet's

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lecturing on the advantages held out by a part of the United States to the emigrant is one of those acts of illiberality which it is difficult to believe would have been exercised by a professedly republican government in this age of the world. But as the government of France has thought proper to issue the prohibition, it cannot be alleged that it has transcended the limit of power to which an independent state, if inclined in the direction of the exercise of extreme powers of repression may go without giving ground for remonstrance on the part of other states whose citizens may thereby be prohibited the exercise of free speech, or the opportunity of diffusing information tending to the possible amelioration of the condition of larger numbers of people.

While, then, this action on the part of the French authorities is unexpected from the present government of that country, and is to be regretted, your reply to Mr. de Pardonnet was proper and is approved.

The censorship of the press, the repression of public discussion, and the prohibition of the diffusion of useful information, are matters of internal policy which will not survive the readiness and the fitness of the people who submit them to accept and maintain a more liberal policy.

The stranger who voluntarily goes among the people content to endure such restrictions must be content to accept the same rules which that people accept for themselves.

I am, &c.,

HAMILTON FISH.

No. 105.

Mr Fish to Mr. Washburne.

No. 487.] DEPARTMENT OF STATE,
Washington, March 14, 1873.

SIR: By an early steamer from the port of New York for Havre will be dispatched to your care six cases of silver, intended to be presented, on behalf of the United States, to the arbitrators named by the King of Italy, the Emperor of Brazil, and the President of the Swiss Confederation under the provisions of the treaty of Washington. Two of these are intended for Count Sclopis, the arbitrator named by the King of Italy, and are to pass in transit through France to Turin, in Italy. Two are intended for Mr. Staempfli, the arbitrator named by the President of the Swiss Confederation, and are to pass in transit through France to Berne, in Switzerland. The remaining two are destined for the Viscount d'Itajuba, the distinguished representative at Paris of His Majesty the Emperor of Brazil, who was the arbitrator named by that sovereign.

You will receive due notice by cable of the vessel by which these several cases will be dispatched.

You will please obtain the necessary orders to enable them to pass the customs unopened and free of duty; and on the receipt of the cases intended for the Viscount d'Itajuba, you will present them to him in the name of the United States, as a mark of their appreciation of the dignity, ability, learning, and impartiality with which he discharged his arduous duties at Geneva, and as an expression of the President's deep sense of the unselfishness with which he devoted his time and his great

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abilities to the solution of the difficult questions which had then arisen between Her Britannic Majesty and the United States, and which are now so happily laid at rest by the action of the Tribunal of Arbitration, of which the Viscount d'Itajuba was so distinguished a member.

I am, &c.,

HAMILTON FISH.

No. 106.

Mr. Washburne to Mr. Fish.

No. 734.] LEGATION OF THE UNITED STATES,
Paris, March 18, 1873. (Received April 9.)

SIR: Since the passage of the new military law in France many questions must arise in regard to persons claiming to be citizens of the United States. As every Frenchman is now held to military service, applications are being made to the legation by young men, who have been treated and considered as Frenchmen, to declare themselves Americans and to receive American passports. The last case is that of Madame Pepin, who applies on behalf of her son, a young man eighteen years of age, to have some papers from the legation stating that he is an American citizen, and is to be protected as such. His case is as follows: John Pepin, the husband and father, was a Frenchman by birth. When a young man he emigrated to the United States, was educated in Kentucky, and became a naturalized citizen, residing in New Orleans. In 1850 he returned to France, leaving some property in New Orleans, which is still held by his family, he having died several years ago. After his return to this country he married a Frenchwoman, by whom he had a daughter, now twenty years of age, and the son above spoken of. He never returned to the United States to live, but made France his residence up to the time of his death. The boy in question has never been to the United States, though the mother and daughter went there two years ago, and the mother obtained a passport from the State department as an American citizen. She says that the boy got a passport two years ago from the United States minister in London, but that he had lost it.

The question arising from this state of facts is, whether this son is a citizen of the United States, and the Government bound to protect him as such, and particularly against the claim of the French government for military service. My own judgment is, that he has no right to claim protection as a citizen of the United States, and that our Government is not called upon to intervene in his behalf. I have therefore declined to do anything in the matter, unless under special instructions from you.

There is another case in regard to which I would like to have your opinion: A man and his wife, Americans by birth, came to Paris forty years ago, and have lived here ever since. This has become their permanent home, and they have never had any intention of returning to the United States. Several of their children have been born here, and have never been to the United States, and never expect to go, and never want to go. The question is, are these children citizens of the United States, and is the Government of the United States bound to protect them as such?

I have, &c.,

E. B. WASHBURNE.

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No. 107.

Mr. Washburne to Mr. Fish.

No. 785.] LEGATION OF THE UNITED STATES,
Paris, March 21, 1873. (Received April 9.)

SIR: You will have seen by the newspapers which I have sent you that the report of the commission of thirty was adopted; all the articles were voted by very large majorities. The opposition was composed of the extreme right and the extreme left. I do not think that the extreme left cared very much about the matter, but there was great violence among some members of the extreme right, who attacked M. Thiers with much bitterness.

The great event of the past week has been the signing of a supplementary treaty between France and Germany, regulating definitely the complete payment of the war indemnity as stipulated by former treaties, as well as the evacuation of the French territory. The news of the signing of this treaty at Berlin on Saturday last was received by M. Thiers at seven o'clock that evening, and after the adjournment of the assembly for that day. It was therefore made known the next morning in the "Journal Officiel," and was immediately telegraphed over all France, causing great joy. The next day, Monday, it was announced in the national assembly by Count de Rémusat, and was received with tremendous demonstration by the greater part of the assembly, some members of the extreme right alone maintaining a sullen silence. The left was particularly jubilant, as it gave them a chance to say that this great feat had been accomplished by the republic. In the evening of Monday Count and Countess de Rémusat gave a grand reception at the ministry of foreign affairs. Great crowds flocked there to tender their congratulations and felicitations on the event. Everybody seemed happy and jubilant, and the utmost good feeling prevailed.

M. Thiers gave a large diplomatic dinner last evening at Versailles, which I attended. I presented to him the congratulations of my Government, as well as my own personal felicitations, upon the conclusion of the new treaty between France and Germany, and the speedy prospect of the evacuation of the French territory by the German troops. M. Thiers seemed very well and in good spirits, though he showed some trace of his recent slight illness.

I have, &c.,

E. B. WASHBURNE.

No. 108.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 794.] LEGATION OF THE UNITED STATES,
Paris, April 11, 1873. (Received April 23.)

SIR: Buffet was elected president of the assembly a week ago today by a majority of nineteen votes over Martel, who was the candidate of the government. This success of Buffet is considered a very serious check to M. Thiers, and may lead to important results after the assembly comes together again on the 19th of May. There is no doubt that

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the country is getting restive under the action of the assembly. The opposition to M. Thiers, and particularly to the republicans, is getting compacted, and the bitterness of feeling against the controlling element of the body is daily increasing. * * *

In my dispatch of last week I spoke of the probability that Count de Rémusat would be a candidate for the assembly to fill a vacancy for this department, (the Seine,) and of the certainty of his election. It is not now so certain, though probable. The recent action of the assembly in the election of Mr. Buffet as its president, and the act it passed some days since suppressing the municipal government of Lyons, have created a profound impression among the republicans of Paris, or rather the more advanced type of them, and they have brought out as their candidate M. Barodet, late mayor of Lyons, legislated out of office, while the more moderate republicans sustain the candidature of Count de Rémusat. The great mass is rallying around the standard of Barodet with a sort of revolutionary ardor. * * *

The assembly adjourned for the recess on Monday night last. M. Thiers came into Paris the next day. I made an official call on him night before last at the Elysée. He seemed very well and cheerful. What do you think of a man seventy-six years old who gives a dinner-party every night of his life, and holds a reception till midnight, and then is up the next morning and at work at five o'clock?

I have, &c.,

E. B. WASHBURNE.

No. 109.

Mr. Washburne to Mr. Fish.

No. 796.] LEGATION OF THE UNITED STATES,
Paris, April 23, 1873. (Received May 9.)

SIR: I have the honor to inform you that all the boxes containing the silver for the Geneva arbitrators have arrived safely in Paris. The boxes for Count Sclopis are in the Bank of France, awaiting directions from Mr. Marsh. The boxes for Mr. Staempfli have been sent to Mr. Upton, at Geneva.

In accordance with your instructions, I yesterday presented the two cases to the Viscount d'Itajuba. I beg to inclose you herewith what I said on the occasion, together with the remarks of the viscount in reply. The presentation was made at the private residence of the viscount, in the presence of quite a number of his friends. I was accompanied by my two secretaries and Mr. Vignaud, as well as by General Schenck, who happened to be in the city. The whole affair passed off very pleasantly, and the viscount, his family and friends, were very much gratified and delighted.

I have, &c.,

E. B. WASHBURNE.

[Inclosure 1.]

Mr. Washburne to Viscount d'Itajuba.

YOUR EXCELLENCY, VISCOUNT D'ITAJUBA: My Government has devolved upon me the agreeable duty of presenting to you, in the name of the United States, two cases of silver, as a mark of appreciation of the dignity, ability, learning, and impartiality with

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which you discharged your arduous duties at Geneva, and as an expression of the President's deep sense of the unselfishness with which you devoted your time and great abilities to the solution of the difficult questions which had then arisen between Her Britannic Majesty and the United States, and which are now so happily laid at rest by the action of the tribunal of which you were so distinguished a member.

The friendly relations so long existing between our two governments, and the pleasant social intercourse which it has been my good fortune to have with you for the last four years as a most highly esteemed diplomatic colleague, make my mission in this regard doubly agreeable, and I beg you to accept the assurance of my sincere friendship and high personal regard, as well as my fervent wishes for your health, happiness, and prosperity.

[Inclosure 2.—Translation.]

Viscount d'Itajuba to Mr. Washburne.

MY DEAR COLLEAGUE: I am deeply touched by the step which you have just taken in my behalf, in the name of your Government, of which you are the worthy representative in France, and by the flattering words you have addressed to me.

It will be for me a never-failing remembrance that I had the honor to belong to the tribunal of Geneva, which, thanks to the wisdom of the United States and Great Britain, had the good fortune to settle peacefully the grave differences which had arisen between the two countries.

I beg you to transmit to the President, and to your Government, my thanks and my good wishes for the prosperity and greatness of the United States, the friend of Brazil. And I pray you to receive for yourself, my dear colleague, the assurance of my high esteem and of my sincere friendship.

No. 110.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 798.] LEGATION OF THE UNITED STATES,
Paris, May 2, 1873. (Received May 15.)

SIR: Barodet is elected. The ex-mayor of Lyons is triumphant in Paris. His election over the Count de Rémusat by a majority of 45,000 has surprised friends and foes alike. Barodet received 180,146 votes: Rémusat, 135,405; while Baron Stoffel, the candidate of the imperialists and legitimists, only received 27,088. The election, which took place on Sunday last, was one of the most exciting ever known in Paris, but the most perfect order everywhere prevailed. Such is the admirable system of conducting elections in France, that, at this election in Paris, where nearly 350,000 persons voted, and at a time of great excitement, I cannot learn of a single arrest or a single altercation. You can hardly realize the extent of the interest which has been felt in all France, and to some extent over all Europe, in this election of members to the assembly, to fill vacancies not only in Paris, but in seven other departments. * * *

When the Count de Rémusat was first spoken of as a candidate there seemed to be but little opposition to him, and I wrote to you I thought he would be overwhelmingly elected. Under ordinary circumstances he would have been, for he is a man of liberal ideas, a friend of order, a very good republican, and a man most highly esteemed by the Parisian population. It soon became evident, however, that the great mass of

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the radicals of Paris were not satisfied with M. Rémusat, for they believed his election could not accomplish their object in rebuking the assembly and the objectionable ministers. Therefore in my No. 794, of the 11th ultimo, I qualified what I had said in my previous dispatch, and expressed doubts of Count de Rémusat's success. The campaign once fairly opened, the radicals in Paris and in all the departments where the elections were to be held rallied to the cry of "The republic!" "Dissolution of the national assembly!" "Election of a constituent assembly!" "Respect for universal suffrage!" "No suppression of municipal liberties!" Care was taken not to have the canvass assume the shape of a manifestation against the government of M. Thiers, but it was against the assembly and the obnoxious cabinet ministers that the contest was to be made. Fighting under this banner the triumph of the republicans has been complete and overwhelming in seven out of the eight departments where the elections were held. In the eighth, Morbilan, in Brittany, the most benighted department in all France, being in the diocese of the Bishop of Vannes, and in some parts of which even the French language is not spoken, the "clericals" elected their candidate by a large majority. * * *

Perhaps the most significant election is that of Lockroy, the editor of one of the most extreme radical papers in Paris, as a member of the assembly from Marseilles. He is now in prison in Paris for some offense connected with the press.

There are to be elections to fill vacancies in four departments on the 11th of this month, and republicans are likely to be elected. Lyons is going to return the compliment to Paris by the election of Ranc, a Parisian, and editor of an extreme radical paper in this city. * * *

I have, &c.,

E. B. WASHBURNE.

No. 111.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 805.] LEGATION OF THE UNITED STATES,
Paris, May 15, 1873. (Received May 31.)

SIR: The elections on the 11th instant resulted, as I had predicted, in an overwhelming radical triumph in three out of the four departments where they were held. In only one department, the Charente-Inferieure, (La Rochelle,) did the reactionists succeed in electing their man, and there only by a majority of less than three thousand in a poll of nearly ninety-five thousand. As I wrote you he would be, Ranc was elected in the department of the Rhone, and his majority ran up to 72,000.

In twelve different departments, holding their elections on the 27th of April and the 11th of May, eleven radicals and two clerico-reactionists were elected. The votes in both elections given to the radical candidates amounted to 700,000, while the votes given to the opposition candidates of all shades amounted to 461,000.

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The "situation" is now the great and engrossing topic for the newspapers, in the clubs, and in all circles. The assembly reconvenes on

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Monday, the 19th instant, and much excitement is anticipated. I do not, however, anticipate any trouble. I think the country will acquiesce in the continuance of that body till the Prussians are paid off and are out of the territory, but nobody can undertake to say what will be the state of things if it undertakes to hold on after that.

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I have, &c.,

E. B. WASHBURNE.

No. 112.

Mr. Washburne to Mr. Fish.

No. 809.] LEGATION OF THE UNITED STATES,
Paris, May 23, 1873. (Received June 5.)

SIR: You will find in the Journal Officiel the reports of M. Thiers and M. Dufaure, his minister of justice, on the proposed fundamental law. I have the honor to inclose you herewith a translation of the text of the bill, offered with the report, which you may find of some interest.

I have, &c.,

E. B. WASHBURNE.

[Inclosure.—Translation.]

The following is the text of the bill presented on Monday in the national assembly by the government for the organization of the public powers:

ARTICLE 1. The government of the French Republic is composed of a senate, a chamber of representatives, and a President of the Republic, chief of the executive power.

ART. 2. The senate is formed of 265 members, French citizens, of at least thirty-five years of age, in the enjoyment of all their civil, political, and family rights.

The chamber of representatives is formed of 537 members, French citizens, not less than twenty-five years of age, in the enjoyment of their civil, political, and family rights.

The President of the Republic must be at least forty years old, and in the enjoyment of all his civil, political, and family rights.

ART. 3. The senate is nominated for ten years, and is renewed by a fifth every two years.

The chamber of representatives is elected for five years, and is renewed entirely at the expiration of that period.

The President of the Republic is nominated for five years, and can be re-elected.

ART. 4. Each of the eighty-six departments of France elects three senators; and the territory of Belfort, the Algerian provinces, the islands of Réunion, Martinique, and Gaudeloupe one each.

The choice will be made by the direct suffrage of all the electors of the department, or the colony, and by a collective list in the French departments.

ART. 5. Can only be elected to the functions of senator—

1. The members of the chamber of representatives.
2. The former members of legislative assemblies.
3. Ministers or persons who have formerly held portfolios.
4. Members of the council of state, the court of cassation, and the court of accounts.
5. Presidents and former presidents of councils-general.
6. Members of the institute.
7. Persons forming part of the superior council of commerce, agriculture, and manufacture.
8. The cardinals, archbishops, and bishops.
9. The presidents of the two consistories of the confession of Augsburg which comprise the greatest number of electors, and of the twelve consistories of the reformed religion which contain the largest number of voters.

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10. The president and the grand rabbi of the Jewish consistory in France.
11. The marshals, generals of division, admirals, and vice-admirals on active service or on the retired list, the governors of Algeria and of the three great colonies who have exercised their functions during five years.
12. The prefects on active service.
13. The mayors of towns of above 100,000 souls.
14. The functionaries who have fulfilled during ten years the duties of directors in the central administrations of the ministries.
15. Retired judges who have belonged to the court of cassation, or to the courts of appeal, or who have held the functions of president of a civil tribunal.

ART. 6. The eligible persons designated in paragraphs 1, 4, and 12 of the preceding article shall declare, in the fifteen days that follow the elections, if they mean to accept the functions of senator. Their silence shall be equivalent to a refusal, and their acceptance will involve at once their resignation of the posts which they were occupying.

ART. 7. Each of the 362 arrondissements of France, including the territory of Belfort, names a representative. However, such arrondissements as have a population exceeding 100,000 inhabitants shall elect as many representatives as there are repetitions of that number, each supplementary fraction counting for 100,000.

The said division can only be modified by virtue of the quinquennial census of the population and by law.

Two representatives are assigned to each of the departments of Algeria, and one to each of the six colonies of Réunion, Martinique, Guadeloupe Senegal, Guyana, and French India.

ART. 8. The election of representatives is effected by the direct vote of all the electors of the arrondissement. The arrondissement which shall have several representatives to nominate shall be divided into as many sections as there are representatives. The sections shall be formed by agglomerations of cantons, and can only be established and modified by the law.

ART. 9. The President of the Republic is named by a congress composed, 1. Of the members of the senate. 2. Members of the chamber of representatives. 3. A delegation of three members designated by each of the councils-general of France and Algeria in their annual session of the month of August.

That congress shall be presided over by the president of the senate.

ART. 10. When the President of the Republic shall have to be elected, the president of the senate, within a week, shall convoke the senators, representatives, and councillors-general designated.

The delay for the meeting shall not exceed a fortnight.

The President of the Republic shall be named by the absolute majority of the suffrages.

The president of the senate shall notify the nomination to the President of the Republic elect, and to the president of the chamber of representatives.

ATTRIBUTIONS OF THE PUBLIC POWERS.

ART. 11. The initiative of laws belongs to the two chambers and to the President of the Republic.

The two chambers co-operate equally in the framing of the laws. But those relating to taxes are first submitted to the chamber of representatives.

The senate can be constituted as a court of justice to try charges of responsibility brought against the President, ministers, and the generals-in-chief of the sea and land armies.

ART. 12. Each of the chambers is judge of the eligibility of its members, and of the regularity of their election, and can alone receive their resignations.

ART. 13. The senators and representatives cannot be sought out, accused, or tried at any time for opinions they may have expressed in the chamber to which they belong.

They cannot be arrested for criminal matters, excepting in cases of *flagrante delicto*, nor prosecuted without an authorization from the chamber of which they form a part.

ART. 14. The President of the Republic promulgates the laws when they have been voted by the two chambers; he watches over and assures the execution of them.

He negotiates and ratifies treaties. No treaty is valid until it shall have been approved of by the two chambers.

He has the right of pardon; amnesties can only be accorded by a law.

He disposes of the armed force without being able to command it in person.

He presides over the national solemnities; the envoys and embassadors of foreign powers are accredited to him.

The President of the Republic and the ministers, taken individually or collectively, are responsible for the acts of the government.

ART. 15. When the President of the Republic shall consider that the interest of the country requires the renewal of the chamber of representatives, before the normal expiration of its powers, he must ask the senate for authorization to dissolve it. That

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permission can only be given in secret committee, and by a majority of votes. It should be accorded within a week.

The electoral colleges should be convoked within the three days that shall follow the notification made to the President of the Republic of the affirmative vote of the senate.

TRANSITORY ENACTMENTS.

ART. 16. When the national assembly shall have determined by a vote the period at which it will separate, the President of the Republic shall convoke the electoral colleges to choose the representatives, and afterward to appoint the senators, so that the two chambers may be constituted on the day of the dissolution.

The powers of the President of the Republic shall last until the notification of the vote of the congress which shall have elected the new president.

A. THIERS,
President of the Republic.
J. DUFAURE,
Minister of Justice.

No. 113.

Mr. Fish to Mr. Washburne.

No. 511.] DEPARTMENT OF STATE,
Washington, June 28, 1873.

SIR: In your No. 784 you invite instructions from the Department respecting two cases, stated by you in the following language:

I. Madame Pepin applies, in behalf of her son, a young man eighteen years of age, to have some paper from the legation stating that he is an American citizen, and is to be protected as such. His case is as follows: John Pepin, the husband and father, was a Frenchman by birth. When a young man he emigrated to the United States, was educated in Kentucky, and became a naturalized citizen, residing in New Orleans. In 1850 he returned to France, leaving some property in New Orleans, which is still held by his family, he having died several years ago. After his return to this country he married a French woman, by whom he had a daughter, now twenty years of age, and the son above spoken of. He never returned to the United States to live, but made France his residence up to the time of his death. The boy in question has never been to the United States, though the mother and daughter went there two years ago, and the mother obtained a passport from the State Department as an American citizen. She says that the boy got a passport two years ago from the United States minister in London, but that he has lost it.

II. A man and his wife, Americans by birth, came to Paris forty years ago, and have lived here ever since. This has become their permanent home, and they have never had any intention of returning to the United States. Several of their children have been born here, and have never been to the United States, and never expect to go, and never want to go.

You also state that—

Many questions must arise in regard to persons claiming to be citizens of the United States. As every Frenchman is now held to military service, applications are being made to the legation by young men who have been treated and considered as Frenchmen to declare themselves Americans.

This seems to make it advisable not only to dispose of the particular cases set forth in your dispatch, but also to invite your attention to certain general considerations which may be useful in determining future cases.

The fourteenth amendment to the Constitution declares that—

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States.

Every person, therefore, who, in the first place, is entitled to claim

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the right of citizenship, by reason of birth within the jurisdiction of the United States, or by reason of naturalization therein, whether under the laws of the General Government or by the operation of treaties for the annexation of territory, and who, in the second place, adds to that natural or acquired title the fact of a personal subjection to their jurisdiction, is constitutionally entitled to be recognized as a citizen, with all the consequences which may follow from such recognition. But the two concurrent circumstances must exist in every case in order to make the constitutional right complete.

It is, however, by no means to be assumed that Congress and the several legislatures which assented to the fourteenth amendment contemplated that a temporary withdrawal of the person of the citizen from subjection to national jurisdiction should forfeit the rights of citizenship. Such a construction would do violence to common sense, to the customs of Americans, who, from the foundation of this Government, have been in the habit of residing in foreign countries, and engaging in commerce there, retaining their nationality; and to the general jurisprudence of nations which recognizes such a residence as consistent with the preservation of nationality. The relations of such a citizen to the Government before the passage of the fourteenth amendment were described by Chief Justice Marshall in language which this Department adopts as equally applicable to his present status. "The American citizen," he says, "who goes into a foreign country, although he owes local and temporary allegiance to that country, yet, if he performs no other act changing his position, is entitled to the protection of our Government; and if, without the violation of any municipal law, he should be oppressed unjustly, he would have a right to claim that protection, and the interposition of the American Government in his favor would be considered a justifiable interposition. But his situation is completely changed where, by his own act, he has made himself the subject of a foreign power. Although this act may not be sufficient to rescue him from punishment for any crime committed against the United States, a point not intended to be decided, yet it certainly places him out of the protection of the United States while within the territory of the sovereign to whom he has sworn allegiance." (2 Cranch, p. 119.)

It seems to this Department that the individual right of expatriation which was thus referred to by Chief Justice Marshall is recognized by that clause of the fourteenth amendment to the Constitution which makes subjection to the jurisdiction of the United States an element of citizenship. This conclusion is strengthened by the simultaneous action of Congress.

The fourteenth amendment passed Congress "on or about the sixteenth of June, in the year one thousand eight hundred and sixty-six," (15 St. at Large, p. 706,) in the form of resolution to be proposed to the legislatures of the several States. On the 20th day of July, A. D. 1868, my predecessor, Mr. Seward, made the official announcement that the proposal had received the requisite number of ratifications, and had become a part of the Constitution of the United States. (Ib.) On the 27th day of the same July the Congress of the United States enacted a law, in the preamble of which they declared that "the right of expatriation is a natural and inherent right of all people," and in the body of which they enacted "that any declaration, instruction, opinion, order, or decision of any officer of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared incon-

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sistent with the fundamental principles of this Government."—(15 St. at Large, p. 223.)

Congress did not then define (nor has it since defined) what may constitute expatriation. The Department is, therefore, in its general instructions, forced to look elsewhere for an enumeration of the acts which may certainly be regarded as expatriating a citizen of the United States, so far as to disqualify him from appealing to the authorities of the United States for protection.

Mr. Justice Marshall, speaking for the Supreme Court, has said in the extract above quoted, that when a citizen "has made himself a subject of a foreign power his situation is completely changed." This judicially-pronounced opinion of one of the most illustrious of my predecessors has been and is a recognized rule for the guidance of this Department.

This proposition is too plain to need further discussion. There are cases, however, resembling those referred to in your dispatch, in which doubts may possibly arise, cases in which the voluntary expatriation is to be inferred, not from an open act of renunciation, but from other circumstances, as, for instance, a residence in a foreign land so constant, and under such circumstances, that a purpose of a change of allegiance may be reasonably assumed.

In regard to such cases, I have to say that the right to be acknowledged as a citizen of the United States must be held as a high privilege and a precious right. When the person who possesses it is untainted by crime, or by the suspicion of expatriation, or by the non-fulfillment of the duties which accompany it, it entitles him abroad to the recognition and protection of a power which is not the least among the powers of the earth, while at home, under general regulations of law, he may participate in the distribution of political rights and privileges, he may enjoy the national guarantees of liberty and of protection to personal property, and he may share the advantages of education and the healthful social and moral influences which result from democratic institutions.

It is provided by the act of 1855 (10 St. at Large, p. 604) that persons born out of the limits and jurisdiction of the United States, whose fathers at the time of their birth are citizens of the United States, shall be deemed and considered to be citizens of the United States, provided that the right of citizenship shall not descend to persons whose fathers never resided in the United States.

I will presently refer to this proviso.

Within the sovereignty and jurisdiction of the United States the persons contemplated by the act are entitled to all the privileges of citizenship; but while the United States may by law fix or declare the conditions constituting citizenship within its own territorial jurisdiction, and may confer the rights of American citizenship everywhere upon persons who are not rightfully subject to the authority of any foreign country or government, it may be safely assumed that Congress did not contemplate the conferring of the full rights of citizenship upon the subject of a foreign nation who had not come within our territory, so as to interfere with the just rights of such nation to the government and control of its own subjects.

It is a well-established principle of public law that the municipal laws of a State have no effect within the limits of another power, beyond such as the latter may think proper to concede to them.

No foreign state can by its municipal legislation release from his obligation to the United States a person born within its territory and its jurisdiction who has continued from his birth to reside therein; and while he resides therein, and if, by the laws of the country of their birth,

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children of American citizens born in such country are subjects of its government, the legislation of the United States should not be construed so as to interfere with the allegiance which they owe to the country of their birth while they continue within its territory, or until they shall have relieved themselves of that allegiance and have assumed their rights of American citizenship, in conformity with the laws and Constitution of the country, and have brought themselves personally within its jurisdiction.

I have above referred to the proviso to the act of 1855. It is evident from this that the law-making power not only had in view the limit (above referred to) to the efficiency of municipal law in foreign jurisdiction, but intended that a distinction be observed between the right of citizenship, declared by the act of 1855, and the full citizenship of persons born within the territory and jurisdiction of the United States, for those declared to be citizens by the act could not transmit citizenship to their children without having become residents within the United States; the heritable blood of citizenship was thus associated unmistakeably with residence within the country, which was thus recognized as essential to full citizenship.

The provisions of the fourteenth amendment of the Constitution have been considered. This amendment is not only of more recent date, but is a higher authority than the act of Congress referred to, and if there be any conflict between them, or any difference, the Constitution must control, and that makes the subjection of the person of the individual to the jurisdiction of the Government a requisite of citizenship.

It does not necessarily follow from this that the children of American parents born abroad may not have the rights of inheritance, and of succession to estates, although they may not reside within or ever come within the jurisdiction of the United States. That question is not within the present consideration.

But if the citizen, on the one side, has rights which he may claim at the hands of the Government, on the other side there are imperative duties which he should perform toward that Government. If, on the one hand, the Government assumes the duty of protecting his rights and his privileges, on the other hand the citizen is supposed to be ever ready to place his fortune and even his life at its service, should the public necessities demand such a sacrifice. If, instead of doing this, he permanently withdraws his person from the national jurisdiction, if he places his property where it cannot be made to contribute to the national necessities; if his children are born and reared upon a foreign soil, with no purpose of returning to submit to the jurisdiction of the United States, then, in accordance with the principles laid down by Chief Justice Marshall, and recognized in the fourteenth amendment, and in the act of 1868, he has so far expatriated himself as to relieve this Government from the obligation of interference for his protection.

The Executive Department of the Government has had occasion to consider this question in negotiating and concluding treaties on the subject of naturalization. Thus it has been agreed with Bavaria, with Hesse, with Mexico, with North Germany, and with Würtemburg, that the residence of a naturalized citizen in the land of his nativity, without intent to return to the United States, shall work of itself a renunciation of his naturalization, and that such an intent may be held to exist where the residence is continuous for more than two years.

This Department would not assume to decide that in such cases as are referred to in your dispatch a continuous residence in a foreign country of two or even of many years should of itself work an expatriation.

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Expatriation is a fact to be established, like any other fact, by external evidence, and such continuous residence, even for a life-time, is capable of being explained on other theories than that of a voluntary denationalization. But when the fact is once established, by whatever proof, it would, in the opinion of this Department, operate to place the expatriated person outside the number of those who can claim the protection of this Government as a right.

The duty of protection as toward the citizen, or the right of its exercise as toward the foreign power, is not always correlative with the fact of citizenship. Thus it was demonstrated by my predecessor, Mr. Marcy, that an extreme case may arise in which a government will be justified in taking upon itself the protection of persons who are not citizens. On the other hand, it is apparent that there may be instances of claims to citizenship which is nominal only, if it have any existence, as where the duties of citizenship have never been performed, where the person of the individual has never been within the national jurisdiction, or is voluntarily removed from it, and purposely kept beyond it; where his movable wealth is purposely placed where it may never contribute to the national necessities, and his income is expended for the benefit of a foreign government, and his accumulations go to swell its taxable wealth; and where from all the surrounding circumstances it must be assumed that he has abandoned the United States, and never intends to return to it.

It cannot be contended that a person with so faint an exercise of the duties of citizenship is entitled to claim the protection of this Government as a right.

Each case as it arises must be decided on its own merits. In each the main fact to be determined will be this, has there been such a practical expatriation as removes the individual from the jurisdiction of the United States?

If there has not been the applicant will be entitled to protection.

Continuous absence from this country does not necessarily presume expatriation. It has always been held to be consistent with a purpose of returning; and in the case of a natural-born citizen, or of a naturalized citizen, so residing in any country, except the country of his nativity, this Department would require its agents to extend the protection of the Government to all citizens, except in the presence of strong affirmative proof of a purpose of expatriation. But when a naturalized citizen returns to his native land to reside, the action of the treaty-making power above referred to would seem to require that such agents be jealous and scrutinizing when he seeks their intervention. Even in such case the purpose of not renouncing the adopted citizenship might be manifested and proved in various ways, such as the payment of an income-tax when such a tax was imposed, the maintenance of a domicile, and the payment of taxes on personal property within the United States, or other affirmative action.

It is the duty of the diplomatic and consular agents of the United States to listen to all facts which may be produced tending to exclude the presumption of expatriation, and to give to them the weight to which in each case they may be entitled.

The particular cases referred to in your dispatch are easily determined on the facts as you state them.

Pepin, the son of a naturalized Frenchman who returned to France and died there, was never in this country. It is alleged that he obtained an American passport from the legation in London some two years since; but it is not produced, and thus leaves him without any

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one of the *indicia* necessary to show an intent on his part to assume the duties of citizenship as well as the privileges granted by the act of 1855.

Excepting the alleged application for the passport in London, it would seem quite possible that, were it not for his desire to avoid the performance of duties required by French law, he would perhaps never have dreamed of calling himself an American, that he would remain in France and avoid all duties to the United States, that he would call himself a citizen of the United States and avoid all duties to France.

In the other case, an American, whose name is withheld, has lived with his family forty years in France, has reared his children there, has never proposed to return to the United States, and his children have never been to the United States, and never expect to go, and never want to go.

In each of these cases there is a presumption of a purpose of expatriation so strong that, until it can be rebutted to your satisfaction, you will be justified in concluding that the persons respectively are not entitled to your intervention to protect them against the operation of the laws of the country which they have selected as their place of residence.

I am, &c.,

HAMILTON FISH.

No. 114.

Mr. Hoffman to Mr. Fish.

No. 837.] LEGATION OF THE UNITED STATES,
Paris, July 24, 1873. (Received August 7.)

SIR: Referring to your dispatch No. 510, of June 21, I have the honor to inform you that I called to-day upon the Duke de Broglie, and communicated to him verbally the views of the President upon the subject of the joint action of the western powers in Japan.

M. de Broglie said that he entered entirely into the views of the United States Government, that the western powers should have a common action; that one should not separate itself from the others with a view to any special advantage, but that they should "press with a common weight" upon countries like Japan; that he must ask for a few days for reflection before taking action in the matter, but that his present impression was very decided to give instruction to the ministers of France at Rome and in Japan in the sense suggested in your dispatch.

Referring to Mr. Washburne's dispatch No. 821, I have the honor to inform the Department that M. de Broglie stated to me this morning that the French government had no objection whatever to the extension of the jurisdiction of the consul-general of the United States in France over Algeria.

Mr. Washburne went to England yesterday, to be absent four or five days.

I have, &c.,

WICKHAM HOFFMAN.

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No. 115.

Mr. Washburne to Mr. Fish.

[Extract.]

No. 840.] LEGATION OF THE UNITED STATES,
Paris, July 31, 1873. (Received August 16.)

SIR: The national assembly finally adjourned on Tuesday last until the 5th day of November next. The last days were strictly devoted to important legislation. One of the last acts of the body was to repeal the law which provided for the surtax on foreign shipping. The prompt action which our Government took on that subject contributed very much to the repeal.

President McMahon sent a message to the assembly on the eve of the adjournment, which has been very well received.

I send you a copy of the message, as well as some comments thereon by journals on opposite sides. There is now a profound political calm throughout all France.

* * * * * * * *

I have, &c.,

E. B. WASHBURNE.

[Inclosure 1.]

Prorogation of the French Assembly.

VERSAILLES, *July* 29.

In to-day's sitting of the assembly the treaties of commerce with England and Belgium were adopted after a short debate.

The Duke de Broglie then read the message of Marshal MacMahon, proroguing the session.

The text of the message was as follows:

"The national assembly has decided to suspend its labors for a few months. It may take its departure without uneasiness, for I venture to assure it that nothing will occur in its absence to endanger the maintenance of public order. The legitimate authority of the assembly will be everywhere respected, and I shall insure this with the co-operation of the ministers whom I have chosen from among you. It is a matter of congratulation to me to see that the ministry is honored with your confidence. The harmony so desirable between the government and the assembly, even during the short space of time which has elapsed since you placed the government in my hands, has already produced the happiest results. Owing to this union, important laws have been voted almost without debate. I place first among them the law which assures the defense of the country in giving a definitive organization to the army, which a few days since you greeted with your acclamations. When you re-assemble, a great event, impatiently expected, will have been accomplished. The foreign occupation will have ceased. The eastern departments, which have so nobly paid their debt to the country, since they were the first victims of the war, and the last pledges of peace, will at length be released from the trial they have heroically supported. We shall no longer see on French territory any other than a French army. This inestimable benefit is the common work of the patriotism of all. My predecessor powerfully contributed by successful negotiations to prepare the way for it. You aided him in his task by affording him your support which never failed him, and now a prudent and firm policy which permits the development of public wealth will rapidly efface the traces of our disasters. Finally, it is our laborious population who have above all contributed to hasten their own liberation by their readiness to accept the heaviest burdens. France on that great day will testify her gratitude to all who have served her, but in the expression of her patriotic joy she will observe the moderation which befits her dignity. She would, I am sure, rebuke noisy manifestations, little suited to her memory of the grievous sacrifices which were the cost of peace. That peace, so dearly bought, is our first necessity. Our firm resolution is to maintain it and place France in complete possession of herself. France will be better capable, even than before, of maintaining with all foreign powers sincerely friendly relations. These feelings are reciprocal on their part, and of this I daily receive formal assurance. Such is the fruit of the wise line of conduct, which the assembly, forgetting internal differences to think only of the

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country's general interests, have several times confirmed by its unanimous vote. You will approve me in continuing this policy."

The passage of the message alluding to the successful negotiations for the liberation of the territory conducted by M. Thiers was received with applause by the Left. At the conclusion of the message there were repeated rounds of applause from the Right and the two Centers. The assembly is prorogued until the 5th of November.

No. 116.

Marquis de Noailles to Mr. Fish.

[Translation.]

LEGATION OF FRANCE,
Washington, January 10, 1873. (Received January 11.)

MR. SECRETARY OF STATE: I have the honor to transmit to your excellency the inclosed dispatch, which has just been sent to me by the minister of foreign affairs of the French Republic.

The French section, which has been intrusted by the international meter commission with the preparation of the standard meters and kilograms which will be needed by the various governments represented in said commission, desires to know how many of these standards it must have made. The minister of agriculture and commerce therefore wishes to know the number of meters, both with and without subdivisions, as also the number of kilograms of iridized platinum which the Government of the United States requires.

The price of a cubic meter will probably not exceed four thousand francs, nor that of a kilogram fifteen hundred francs.

I shall be happy, Mr. Secretary of State, to place myself at the service of your excellency in order to transmit the reply which it may please your excellency to make on this subject to the department of foreign affairs of France.

Be pleased to accept, Mr. Secretary of State, the assurances of my very high consideration.

MARQUIS DE NOAILLES.

Count De Rémusat to Marquis de Noailles.

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,
DIVISION OF CONSULATES AND COMMERCIAL AFFAIRS,
Versailles, December 6, 1872.

SIR: The French section, which has been intrusted by the international meter commission with the preparation of the standard meters and kilograms which will be needed by the various governments represented in said commission, desires to know how many of these standards it must have made.

I will therefore thank you, sir, to enable me to comply with the request addressed to me by the minister of agriculture and commerce, by informing me as soon as possible of the number of meters, both with and without subdivisions, and also of the number of kilograms of iridized platinum which will be required by the Federal Government.

The price of a meter will probably not exceed, all expenses included, the sum of 4,000 francs, and the price of a kilogram will probably not exceed 1,500 francs. M. Teisserem de Bat adds that the sums whereby payment is to be made for standards must be placed at the disposal of the French government, so that the orders for payment may be delivered by the minister of commerce according to the method adopted for the expenses hitherto incurred by the meter commission.

Receive, sir, &c.,

REMUSAT.

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No. 117.

Mr. Fish to Marquis de Noailles.

DEPARTMENT OF STATE,
Washington, February 15, 1873.

SIR: I have the honor to acknowledge the receipt of your note of the 25th ultimo, requesting, at the instance of the minister of foreign affairs of France, that proper steps may be taken by this Government to return to the United States one Charles Hamilton, of New York, who is at present an inmate of one of the asylums of the department of the Seine.

If you are able to inform me where the friends of Mr. Hamilton reside so that a letter can reach them, I shall be pleased to be the medium of communicating to them the wish of your Government respecting him, and to invite a favorable attention to it.

It has never been the custom of Congress to place at the disposal of this Government any fund for the purpose of assisting citizens of the United States situated as Mr. Hamilton is to return to this country, and no such fund is now available for granting your request.

We have been rather occupied in this country in providing for the necessities of the destitute and suffering of European birth, who have been made the subjects of our pity and charitable care in great numbers and at great expense, but we have not thought it our right to ask other nations to assume these burdens, except in cases where paupers, or persons incapable of supporting themselves, have been sent here by governmental or municipal aid.

Accept, &c.

HAMILTON FISH.

No. 118.

Marquis de Noailles to Mr. Fish.

[Translation.]

LEGATION OF FRANCE,
Washington, February 15, 1873. (Received February 18.)

The international standard commission adopted a series of resolutions at its last meeting, among them those contained in the inclosed note, the object of which is to secure the establishment at Paris of an international bureau of weights and measures.

In accordance with the instructions contained in paragraph xxxvii the standing committee appointed by the standard commission has addressed the minister of agriculture and commerce for the purpose of securing through the mediation of the French government the creation of an international bureau of weights and measures on the basis stated by the commission itself.

The minister of agriculture and commerce has caused an approximate estimate to be made of the expense which would be necessary for the creation of the bureau, and also of the amount which would annually be required for its maintenance. It appears from the statements which have

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been furnished to him that, even if it should be found necessary to establish the proposed bureau in a special building, the cost of construction, together with that of an appropriate site, and of the necessary instruments, would probably not exceed 500,000 francs. The amount annually required for salaries, &c., would, it is thought, be from fifty to sixty thousand francs.

The French government having been specially requested to bring the inclosed resolutions to the notice of the various countries interested, I have the honor to commend them to your excellency's attention, begging you to be pleased to inform me whether the Government of the United States gives its adhesion to the principle therein involved. If so, there would doubtless be ground for the conclusion of a diplomatic convention to establish the conditions for the working of the international bureau, in conformity with the proposition of the commission, and to fix the share to be paid by each country of the expense of building and maintenance, a regular estimate of which expense would probably be prepared.

I shall be grateful to you, Mr. Secretary of State, if you will be pleased to inform me, as soon as possible, of the opinion entertained by the Federal Government of the proposition which I have hereby had the honor to submit to your excellency.

Be pleased to accept, &c.

MARQUIS DE NOAILLES.

XXXVI. The international commission calls the attention of the governments interested to the great advantage which would accrue from the establishment at Paris of an International Bureau of Weights and Measures, on the following basis:

1. The establishment shall be international and shall be declared neutral.

2. Its seat shall be at Paris.

3. It shall be founded and supported at the common expense of all the countries which shall become parties to the treaty to be made, for the creation of the bureau by the countries interested.

4. The establishment shall be a dependency of the International Standard Commission, and shall be under the surveillance of the standing committee which shall appoint its director.

5. The international bureau will have the following functions:

A.—To be at the disposal of the standing committee for the comparisons which are to serve as a basis for the verification of the new prototypes, of which the committee has charge.

B.—To preserve the international prototypes according to the orders of the international commission.

C.—To make periodical comparisons of the international prototypes with the national standards, and with the test standards, and also to compare the standard thermometers according to the rules established by the commission.

D.—To attend to the manufacture and verification of the standards which may hereafter be required by other countries.

E.—To compare the new metric prototypes with the other fundamental standards used in the different countries and in the sciences.

F.—To compare such standards and balances as may be sent for its inspection by governments or learned societies, or even by artists and men of science.

G.—The bureau shall perform all operations that may be required by the commission or its standing committee in the interest of meterology and of the propagation of the metric system. (Commission VII.)

XXXVII. The bureau of the international commission is instructed to address the French government requesting it to communicate, through its diplomatic representatives, the recommendation of the commission in regard to the creation of an international bureau of weights and measures, to the governments of all the countries represented in the commission, and also requesting it to solicit these governments to conclude a treaty for the establishment, by general concurrence and with the least possible delay, of an international bureau of weights and measures on the basis proposed by the commission. (Commission, VII.)

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government to the expediency, when the Emperor of China shall have obtained his majority, of a combined action on the part of the treaty powers at Peking for the personal reception of their representatives by the Emperor.

The question involved in this communication had for some time engaged the attention of Her Majesty's government, and the communication which they had it under consideration to make to other powers has only been anticipated by that which I have now received from Count d'Harcourt. It is therefore fitting that I should now enable your excellency to explain to M. de Rémusat the view taken of the question by Her Majesty's government.

They have considered it under the twofold aspect, namely, whether the admission of foreign representatives to audience of the Emperor of China would improve the position of the powers either politically or commercially, and whether the attempt to obtain it be successful or the reverse might not lead to serious complication, either as regards the stability of the Emperor's throne or the maintenance of friendly relations with the Chinese Empire.

Her Majesty's government are aware that an opinion has long prevailed among the foreign community in China that direct access to the Emperor would be attended with benefits to commerce, and establish a better state of relations between their countries and China. But, regarded in this point of view, it may be asked whether commerce has suffered, or friendly relations with China been impaired, under the exclusive system which has hitherto prevailed? It cannot be said in the face of the wonderful development assumed by trade, and which is yearly increasing, that the merchant suffers from the want of occasional direct communication with the Emperor; neither can it be said that friendly relations with China have suffered from it. There may be points of detail which might be regulated to the advantage of commerce, but it is not likely that the imperial interference could be invoked for the purpose; there might be greater cordiality in the personal relations of foreigners and Chinese, but the remedy for the absence of it could hardly be the result of diplomatic interference. It might be found, perhaps, in the greater disposition of the foreign community to study the language and to consult the prejudices of the people, to seek friendly and social intercourse with them, rather than to keep aloof from them, and to abstain from pressing questions in opposition to the sentiments and received traditions of the government authorities and people.

But be this as it may, it can hardly be doubted that whatever influence the Emperor of China, if a man of mature age and endowed with administrative talents, and of an enlightened mind, might have in reforming the system under which foreign relations are carried on in China, the young Emperor who has just assumed the government on the declaration of his majority at a very early age, could not be expected to have any at all, and that any attempt on his part to press forward innovations repugnant to the general feelings of the nation would either be disregarded or lead to disturbances in the empire.

But it is alleged that if the question of audience were pressed to a successful issue the result would have a very important influence on the authorities and people of China, who would see in it an acknowledgment on the part of the Emperor that he is not superior to other foreign sovereigns. But is there certain assurance of such a result if the audience were now to be insisted on, and would it be prudent to risk the consequences of a failure?

Assuredly the powers have a right under treaty to require that their representatives should be personally received by the Emperor. But if the Chinese government seek to evade the concession, or attach to it conditions which cannot be submitted to, what in such a state of things would be the position of the powers? Are they to submit to being baffled, and desist from their demand? But this would scarcely be consistent with their dignity, or the safety of their important relations with China.

Are they to resent the refusal by withdrawing their missions from Peking? But this, while it would probably be most acceptable to the Chinese government, would involve a return to the old vicious system, now happily discarded, and throw the powers back on the local authorities at the different ports, instead of dealing with those authorities by the supreme powers of the central government held responsible for the conduct of its subordinate authorities.

There remains indeed one alternative, which as regards themselves, indeed Her Majesty's government are not prepared to encounter for such an object as the audience, and from which other powers would, in all probability, equally shrink, namely, a recourse to hostilities to obtain access for their representatives to the Emperor. But independently of all other considerations warfare, even in its most mitigated form of a blockade of the ports of China, and the consequent stoppage of foreign trade, would inflict a far greater amount of injury on the foreigners than on the Chinese, who might find some consolation in escape from holding intercourse with foreigners, and be content for that object to forego the financial benefit to the country which such intercourse brings with it. Still as it has been so long assumed that occasion would be taken by the powers, from the majority of the Emperor, to bring forward the question of audi-

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ence, they might expose themselves to some discredit if they let the opportunity pass by without some allusion to it.

Her Majesty's government are, therefore, inclined to think that the foreign representatives at Peking might well, collectively or individually, state to Prince Kung that they are instructed to request his highness to convey to the Emperor the congratulations of their respective sovereigns on the attainment of his majority and his assumption of the government; that their governments would gladly have conveyed these congratulations directly to the Emperor in the manner and with the ceremonial observed at other courts; but as this would involve innovation in the practice of the Chinese empire, and might therefore produce inconvenience to the young Emperor at the moment of his accession, which the powers would be sorry to do, they are satisfied, without abandoning the right at a time which they reserve to themselves to fix, as they may find it expedient, to seek for their representatives audience of His Imperial Majesty, not to press the question at the present time, in the hope that experience of affairs will teach His Imperial Majesty the expediency of adopting the ordinary usages of nations in this matter, and in the belief that the alteration in the custom of the imperial court will be more satisfactory when inaugurated by the Emperor's own matured judgment.

Your excellency will read and give a copy of this dispatch to M. de Rémusat, and a copy will also be communicated by Her Majesty's ministers at other places to the governments to which they are accredited.

I am, &c., &c.,

GRANVILLE.

No. 121.

Marquis de Noailles to Mr. Fish.

[Translation.]

LEGATION OF FRANCE,
New York, June 9, 1873. (Received June 12.)

MR. SECRETARY OF STATE: Although temporarily absent from Washington I do not wish to delay sending to your excellency the inclosed copy of a dispatch which I have just received from my government.

So far as I have been able to understand from the few words which I have heard from the mouth of your excellency in relation to the treaty which has just been proposed to the government of the Mikado by the minister of Italy in Japan, in relation to the privileges to be granted to his countrymen traveling in the interior of the empire, I think I may hope that the views of the Department of State will coincide with those expressed in the dispatch of the minister of foreign affairs of France. It is, indeed, a matter of great importance, as well for the United States as for France, that the representatives of the principal powers in Japan should act harmoniously, and your excellency has several times been pleased to state to me how important you considered it that their harmonious action should not be interrupted.

Be pleased, &c.

MARQUIS DE NOAILLES.

Count de Rémusat to the Marquis de Noailles.

VERSAILLES, *May* 9, 1873.

MARQUIS: Our chargé d'affaires informs me that the minister of Italy is about to go to Rome on leave of absence, and that, while there, he will submit to the approval of his government an arrangement, the terms of which have been fixed by him, with the ministers of the Mikado, with a view to making provision for the free travel of Italians in the interior of the empire. I have the honor herewith to send you the text of this draught of a convention as furnished to M. de Turenne by the legation of Italy, and by the minister of foreign affairs of Japan. The difference between the two versions does

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government to the expediency, when the Emperor of China shall have obtained his majority, of a combined action on the part of the treaty powers at Peking for the personal reception of their representatives by the Emperor.

The question involved in this communication had for some time engaged the attention of Her Majesty's government, and the communication which they had it under consideration to make to other powers has only been anticipated by that which I have now received from Count d'Harcourt. It is therefore fitting that I should now enable your excellency to explain to M. de Rémusat the view taken of the question by Her Majesty's government.

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Her Majesty's government are aware that an opinion has long prevailed among the foreign community in China that direct access to the Emperor would be attended with benefits to commerce, and establish a better state of relations between their countries and China. But, regarded in this point of view, it may be asked whether commerce has suffered, or friendly relations with China been impaired, under the exclusive system which has hitherto prevailed? It cannot be said in the face of the wonderful development assumed by trade, and which is yearly increasing, that the merchant suffers from the want of occasional direct communication with the Emperor; neither can it be said that friendly relations with China have suffered from it. There may be points of detail which might be regulated to the advantage of commerce, but it is not likely that the imperial interference could be invoked for the purpose; there might be greater cordiality in the personal relations of foreigners and Chinese, but the remedy for the absence of it could hardly be the result of diplomatic interference. It might be found, perhaps, in the greater disposition of the foreign community to study the language and to consult the prejudices of the people, to seek friendly and social intercourse with them, rather than to keep aloof from them, and to abstain from pressing questions in opposition to the sentiments and received traditions of the government authorities and people.

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Her Majesty's government are, therefore, inclined to think that the foreign representatives at Peking might well, collectively or individually, state to Prince Kung that they are instructed to request his highness to convey to the Emperor the congratulations of their respective sovereigns on the attainment of his majority and his assumption of the government; that their governments would gladly have conveyed these congratulations directly to the Emperor in the manner and with the ceremonial observed at other courts; but as this would involve innovation in the practice of the Chinese empire, and might therefore produce inconvenience to the young Emperor at the moment of his accession, which the powers would be sorry to do, they are satisfied, without abandoning the right at a time which they reserve to themselves to fix, as they may find it expedient, to seek for their representatives audience of His Imperial Majesty, not to press the question at the present time, in the hope that experience of affairs will teach His Imperial Majesty the expediency of adopting the ordinary usages of nations in this matter, and in the belief that the alteration in the custom of the imperial court will be more satisfactory when inaugurated by the Emperor's own matured judgment.

Your excellency will read and give a copy of this dispatch to M. de Rémusat, and a copy will also be communicated by Her Majesty's ministers at other places to the governments to which they are accredited.

I am, &c., &c.,

GRANVILLE.

No. 121.

Marquis de Noailles to Mr. Fish.

[Translation.]

LEGATION OF FRANCE,
New York, June 9, 1873. (Received June 12.)

MR. SECRETARY OF STATE: Although temporarily absent from Washington I do not wish to delay sending to your excellency the inclosed copy of a dispatch which I have just received from my government.

So far as I have been able to understand from the few words which I have heard from the mouth of your excellency in relation to the treaty which has just been proposed to the government of the Mikado by the minister of Italy in Japan, in relation to the privileges to be granted to his countrymen traveling in the interior of the empire, I think I may hope that the views of the Department of State will coincide with those expressed in the dispatch of the minister of foreign affairs of France. It is, indeed, a matter of great importance, as well for the United States as for France, that the representatives of the principal powers in Japan should act harmoniously, and your excellency has several times been pleased to state to me how important you considered it that their harmonious action should not be interrupted.

Be pleased, &c.

MARQUIS DE NOAILLES.

Count de Rémusat to the Marquis de Noailles.

VERSAILLES, *May* 9, 1873.

MARQUIS: Our chargé d'affaires informs me that the minister of Italy is about to go to Rome on leave of absence, and that, while there, he will submit to the approval of his government an arrangement, the terms of which have been fixed by him, with the ministers of the Mikado, with a view to making provision for the free travel of Italians in the interior of the empire. I have the honor herewith to send you the text of this draught of a convention as furnished to M. de Turenne by the legation of Italy, and by the minister of foreign affairs of Japan. The difference between the two versions does

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not change the purport of this document, the sole interest of which for us lies in the provision, in virtue of which Italians, when they have passed the limits assigned by the treaties now in force, as those of the residence of foreigners, are to be subject to the jurisdiction of the Japanese authorities.

The motive which has led the minister of Italy to seek to procure access to the interior provinces for his countrymen is evident, and as long ago as 1868 we were witnesses of the impatience of his predecessor to secure to his country new facilities for the obtainment of silk-worms' eggs. Whatever may be the importance of this product for Italian industry, the advantage expected from the new convention does not seem to us to make amends for the very serious objections which it presents. Such has been, according to the information furnished me by our chargé d'affaires, the opinion of the representatives of England, the United States, Russia, Germany, and Spain, who have, like him, viewed with regret the agreement brought about by the minister of Italy, and who have felt it their duty to write in this sense to their governments, urging them to dissuade the government at Rome from ratifying the arrangement submitted to it for approval. This is a step which we on our part cannot hesitate to take, and which is justified by an interest of the highest importance. The proposed convention would in effect destroy in a capital matter that unity of action which constitutes the first element of the success of foreign legations in Japan. It would create a troublesome precedent, of which the Japanese government (which has already declared that other nations shall enjoy similar privileges only on the same conditions) would not fail to avail itself. The organization of justice in Japan, and the laws in force there, do not furnish guarantees sufficient to render it wise to renounce, for the present at least, the right of exercising protection over our citizens, and of securing to them, on these terms, access to the provinces of the interior, where we hope without doubt to cause them to be admitted more freely, but without abandoning a prerogative, the maintenance of which is still rendered necessary by the state of the country. What we know of the intentions of the Washington Cabinet does not permit us to doubt that it will share our view, and the Secretary of State, whose attention I beg you to call to this matter, will without doubt be disposed to instruct the representative of the United States at Rome to endeavor, as Mr. Fournier will do, to induce the Italian government not to sanction an arrangement whereby it only secures an advantage which it might confidently expect to secure by co-operating with the other powers in their efforts, and which it would then obtain without making a dangerous sacrifice.

Receive, &c.

RÉMUSAT.

Draft of a provisional convention relative to the travel of foreigners in the interior of Japan, presented by the minister of Italy to the government of the Tenno.

1. Italians may travel freely in the interior of the empire, with the proviso that, if they shall go beyond the limits of the jurisdiction of their consuls, they shall be under the protection and jurisdiction of the territorial authorities, according to the usages which prevail in the countries of Europe and America.

2. To this effect Italians of good character and conduct shall obtain, through the intervention of the authorities under whose jurisdiction they are, a personal passport from the ministry of foreign affairs.

3. If an Italian subject, or his property, shall suffer injury, the Italian government shall have the right to demand satisfaction, conformably to the laws of Japan. It is understood, however, that the said government shall not interfere in any matter of this kind so long as that one of its subjects who shall have been injured in person or property shall not have used all the means rendered available to him for the obtainment of justice before the Japanese tribunals.

There shall be no exception to this rule, save in the case of an evident denial of justice.

4. The Japanese government engages that foreigners condemned by its courts shall not be subjected to cruel punishments.

Such persons shall only be liable to imprisonment, *with or without compulsory labor*. (Sic.)

5. If a crime shall be committed rendering the perpetrator liable to capital punishment, the local authorities shall not execute the sentence without having first referred the matter to the seat of the government of the Tokei, in order to conform to the usages adopted in this empire in the case of a Japanese under a similar sentence.

[These two paragraphs are wanting in the text of the draft furnished by the Japanese government to the French government.]

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No. 122.

[Received from the Marquis de Noailles June 19, 1873.—Translation.]

PARIS, *May* 26, 1873. (Received June 20.)

PROTOCOL.

MARQUIS: The Assembly, in which is vested the national sovereignty, received, in its session of the 24th instant, the resignation of M. Thiers, and intrusted the office and dignity of the President of the French Republic to Marshal MacMahon, Duke of Magenta. I hasten to notify you of this solemn act, and to request you to bring it to the knowledge of the Government near which you reside. Entertaining a most earnest desire to see friendly relations drawn closer between France and foreign powers, the government is determined, as it has proclaimed, to maintain peace at home and to uphold the principles on which society rests.

I beg you to express, in the name of the French Republic, the assurance of the best wishes of its government for the strengthening of the friendly relations between France and the United States, and of its firm intention to contribute, by all the means in its power, to the consolidation of universal peace.

Receive, &c.

BROGLIE.

The Marshal de MacMahon, Duke of Magenta, President of the French Republic, to the President of the United States of America.

GREAT AND GOOD FRIEND: The assembly, the depository of the national sovereignty, received, during its session of the 24th instant, the resignation of M. Thiers, the President of the republic, and conferred upon me, in his stead, the same office and dignity. I hasten to bring this double vote to your knowledge. You cannot doubt that I will study to develop the friendly relations between the two countries, and to maintain, with internal and external peace, the great principles of order on which society is based. I think myself happy in having an opportunity to give you these assurances, and I hope for a reciprocation of these sentiments on your part.

Praying God to have you in His safe and holy keeping, I offer to you, great and good friend, the assurance of my high esteem.

Written at Versailles May 31, 1873.

MARSHAL DE MACMAHON,
Duke of Magenta.

Countersigned:
BROGLIE.

No. 123.

Marquis de Noailles to Mr. Fish.

[Translation.]

LEGATION OF FRANCE IN THE UNITED STATES,
Washington, July 12, 1873. (Received July 15.)

Mr. SECRETARY OF STATE: I have the honor herewith to transmit to your excellency a copy of a dispatch which I have just received from my government. It appears from this dispatch that the Italian govern-

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ment is not disposed to ratify the draft of a convention proposed by the minister of Italy in Japan, and rejects the conditions proposed for the free travel of foreigners in the interior of that empire.

I have thought that your excellency would learn this decision of the Italian government not without interest.

Be pleased to accept, &c.

MARQUIS DE NOAILLES.

Duke de Broglie to Marquis de Noailles.

VERSAILLES, *June* 19, 1873.

MARQUIS: On the 9th ultimo my predecessor stated to you the considerations which had induced him to instruct the minister of France at Rome to endeavor to prevent the ratification, on the part of the Italian government, of a draft of a convention prepared by the representative of Italy in Japan, providing for the free travel of Italian citizens in the provinces of the interior.

We have not been alone in regarding the concession made by this agent as dangerous, and the cabinet of London and that of the Hague having joined us in advising the Italian government not to sacrifice the right of jurisdiction over its citizens, it appears, from the reply of M. Fournier, that the cabinet of Rome, sharing our view of the case, will refuse to accept the conditions proposed by the projected convention as a basis of free travel in the interior of the country. The United States would undoubtedly have regretted, as we should have done, to see a privilege which is still so necessary abandoned by one of the powers represented in Japan, and, thinking that the Secretary of State will be glad to learn the decision which has been reached at Rome, I hasten to bring it to your knowledge.

Receive, marquis, the assurances of my high consideration.

BROGLIE.

No. 124.

Mr. Davis to Marquis de Noailles.

DEPARTMENT OF STATE,
Washington, July 22, 1873.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, transmitting a copy of a dispatch received from your government, from which it appears that the Italian government is not disposed to ratify the draft of a convention prepared by its representative in Japan, and rejects the conditions proposed for the free travel of foreigners in the interior of that empire.

I beg to convey to you the thanks of this Department for your courtesy in communicating this information.

Accept, &c.

J. C. B. DAVIS,
Acting Secretary.

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XIV.—GERMANY.

No. 125.

Mr. Bancroft to Mr. Fish.

No. 408.] AMERICAN LEGATION,
Berlin, October 15, 1872. (Received October 31.)

SIR: The death of Mr. Seward has been very generally noticed in the German papers, and great respect has been shown to his memory. The tone of the papers has been marked by good will toward our country, and a full tribute has been paid to the recent successes of our diplomacy. I inclose to you the notice from the "*Spener'sche Zeitung*," a journal that stands in favor with the present government and is thought to enjoy its confidence.

For myself, I stood in no very near relations to Mr. Seward until I received the appointment to Berlin. It is due to his memory to say that I found in him always, as head of the Department, friendly support, unlimited confidence, a just conception of European political relations, and a readiness under all circumstances to do justice and to promote the best relations between Germany and the United States.

I remain, &c.

GEO. BANCROFT.

[Translation from the Spener'sche Zeitung, Berlin, October 15, 1872.]

WILLIAM H. SEWARD.

We have already referred to the departed transatlantic statesman in our daily summary. The greatness of the man, however, demands a more extended notice than can be given in the limited space of a summary, and we therefore give one here.

We have briefly alluded to the principal events of his life. He was, on his father's side, of Welsh, and on his mother's side of Irish descent, and was therefore, notwithstanding his Anglo-Saxon name, of purely Celtic extraction. His physical exterior gave no indications of this fact. Acute understanding, political consistency, and unyielding intrepidity are not the characteristics by which this in other respects highly gifted Celtic race has distinguished itself in history. Precisely these qualities were possessed by Mr. Seward in an eminent degree. While a boy he spent six months at an institute in Georgia, and the brief insight which he there gained of life in the slave States decided the political course of his whole life. Thenceforth he was an earnest abolitionist. While governor of the State of New York, to which office he was elected in the year 1838, he settled this question so far as he was concerned. He resolutely refused the surrender of two sailors who were supposed to have aided fugitive slaves in making their escape, and, in an official document, boldly declared the act with which they were charged to be a praiseworthy one. On retiring from his office as governor, he entered the arena of Federal politics. In the year 1844 he supported Henry Clay, the unsuccessful candidate for the presidency, and in 1848 General Taylor, the successful candidate. Finally, in the year 1849, he was elected to the Senate of the United States by an immense majority. He immediately began the great struggle against slavery, which was destined to lead, through streams of blood, to the removal of this cancer, which was consuming the vitals of the United States. The struggle began with a dispute concerning the Territories which had been annexed to the United States. The South wished to have slavery introduced by law into these Territories; the North objected. Seward fought in the front rank of the abolition party. It was from his lips that the well-known declaration then fell, that the question at issue was whether slavery was to be extended over the whole Union or was to be abolished everywhere in its territory. In the year 1852 Seward supported General Scott, and in the year 1856 Fremont, for the Presidency. Finally, in May, 1860, at the republican convention held at Chicago, he received, on the first ballot, 173 votes; the largest number received by any of the rival candidates was 102, which gave Seward a plurality of 71 votes. A

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plurality, however, was not sufficient for a nomination by the party; a clear majority was required; and, as he was vigorously opposed by Horace Greeley, the editor of the influential New York Tribune, Lincoln, his strongest competitor, received the necessary majority through the change of a very few votes after the third ballot. Seward nobly withdrew, and worked with untiring zeal for his successful rival, who, in the following autumn, was chosen President by the vote of the whole people. With a proper appreciation of his merits, Lincoln then selected his self-sacrificing friend as his minister of foreign affairs.

The early days of the term of the new Secretary of State were dark ones. "The United States for freedom, and America for the Americans," had been the motto of his political career, and now for years he saw the militia of the North fly before the warlike cavaliers of the slave States, saw the Union apparently hopelessly disrupted, and, finally, saw a French army on the soil of the American continent. The famous Monroe doctrine could certainly not have been more contemptuously set at naught than by the establishment of a Mexican empire, with a European prince, under the protection of European bayonets. Seward bided his time. Once, in the well-known Trent case, he allowed himself to be so far carried away as to give England an opportunity to interfere in the contest. In his first note addressed to the London cabinet he very vigorously defended the search of the British steamer which had been made for the purpose of arresting the envoys of the rebel States. Subsequent reflection, however, induced him to yield this point, and he gave all desired satisfaction to the English government. The passionate Secretary of State took revenge on England in a speech, in which he referred to the annexation of Canada to the United States as a simple question of time. Meantime the affairs of the war began to take a turn. At the moment of the greatest military triumphs of the South, Seward extorted from the hesitating Lincoln the decree which irrevocably banished slavery from the entire territory of the Union, and thereby gave the death-blow to the warlike southern confederacy. Being thenceforth obliged to hold its slave population in check, the South succumbed at last, after a glorious resistance. The vanquished slave-party, however, at once raised the dagger of the assassin. Lincoln was murdered in the theater, and Seward, who lay ill in bed, was severely wounded in the face and neck, while one of his sons was killed in pursuing the assailant. Contrary to the expectation of his physicians, he recovered from his wounds, although now sixty-four years of age; and now commenced an era of political success for him.

Seward had hitherto shown himself a passionate and energetic partisan; he now showed himself a statesman. In the contest between Congress and the new President, Johnson, he resolutely took the part of the latter, who, while making many mistakes, was yet earnestly laboring for the reconciliation of the conquered South, and did not wish to abandon it to the partisan bitterness of the fanatical population of the North. The result justified his course; Johnson was acquitted by the Congress before which he had been impeached. Still more decided was Seward's triumph in foreign politics. In the autumn of 1865 the new Mexican empire seemed firmly established; then it was that the American Secretary of State first found time to give this subject his attention. A brief exchange of notes with France sufficed to shake the Mexican empire to its foundations, to drive the hitherto victorious French army, demoralized and decimated, home, and to bring about, for the unfortunate Emperor Maximilian, the catastrophe of Queretaro. The Monroe doctrine had been fully vindicated by a bloody example. Seward also lived to see the humiliation of England before America, although then no longer in the active service of his country. He saw England found guilty and sentenced to make due reparation by the Geneva court of arbitration. A few weeks after this he laid his weary head to rest.

The departed American statesman belonged to a class of politicians scarcely represented in the American politics of to-day. He was a man of high principle, who knew something higher than the use of the public resources for private and party purposes. In ardent energy and unflinching intrepidity, he resembled one of those mighty statesmen who stood by the cradle of the American Republic. He therefore deserved, in the midst of smaller contemporaries, to free the great republic of the West from the stigma of slavery, as he gloriously did, after a most obstinate struggle.

No. 126.

No. 440.] *Mr. Bliss to Mr. Fish.*

AMERICAN LEGATION,
Berlin, December 28, 1872. (Rec'd January 18, 1873.)

SIR: I send herewith the text of the decree of the Emperor relieving Prince Bismarck from the presidency of th Prussian ministry, and trans-

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ferring the duty of the presiding to the "senior minister;" also, the text of the notification of the change to Parliament by Prince Bismarck, stating that Count von Roon will accordingly, from date, assume the presidency.

I also append an article of the semi-official organ, the "*Provinzial Correspondenz*," which interprets, it is supposed, authoritatively, the meaning of the change. It must be admitted that the measure is one that, without interpretation, would not explain itself, and that, even thus elucidated, leaves the construction of the Prussian ministry anomalous.

I am, &c.,

ALEXANDER BLISS.
Chargé d'Affaires.

BERLIN, *December* 24.

A decree, dated the 21st instant, of His Majesty the Emperor and King to Prince von Bismarck, reads thus:

In accordance with the suggestion contained in your report of the 20th instant, I hereby relieve you of the presidency of my ministry of state. You will still report to me concerning the affairs of the empire and foreign affairs, and, in case of your being prevented from taking part, personally, in a session of the ministry of state, you will have the right to cause your vote to be given, on your own responsibility, by the president of the office of the chancellor of the empire, Minister of State Delbrück, in matters concerning the interests of the empire. The presidency of the ministry of state will be transferred to the senior minister of state. I have brought this matter to the knowledge of the ministry of state.

Berlin, December 21, 1872.

WILLIAM.
PRINCE VON BISMARCK.

To the President of the Ministry of State, PRINCE VON BISMARCK.

No. 127.

No. 451] *Mr. Bancroft to Mr. Fish.*

AMERICAN LEGATION,
Berlin, January 21, 1873. (Received February 15.)

SIR: I have endeavored to combine the relaxation which I enjoyed under the leave of absence you granted me with the duties that devolve on me as minister in Berlin.

Of questions that affect all Europe, the changes that are going forward in the East are of the greatest moment; England, France, Italy, Germany, Russia, and Greece, to say nothing of Servia, Roumania, and Egypt, taking almost equal interest in the result. To the end, therefore, that I might better understand the policy of this Court in all that relates to the Orient, I employed my holidays in a tour to Constantinople, Athens, and Egypt.

I left the Bosphorus and Greece with the conviction that, from the great multiplicity of nationalities in the Turkish Empire, the regeneration of the East could not depend on one nationality alone, yet that no one has distinguished itself so much by culture, capacity, and enterprise, and by actual progress, as the Greek.

Of the condition and prospects of Egypt I was able to form opinions from the frank and very extended communications of the Khedive him

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self, the most free and confidential intercourse with some of the most enlightened men in his viceroyalty, and from my own observations. All along on the Nile, at the principal towns, the Arab magistrates called to see so unusual a person as an American minister, but not much was to be learned from them. Their idea of courtesy seemed to be to make very long visits and to sit nearly in silence.

On the 22d of December I turned my face toward Berlin, having collected, as I hope, all that is necessary to enable me to judge correctly of the influence which the German government may desire to exercise on the Oriental question. It gives me pleasure to say that everywhere the name of the American nation stands among the very highest, and its greatness is acknowledged without jealousy or fear.

I began my return to Berlin on the 22d of December, but it was somewhat delayed by the difficulties of the sea and the winter season.

I remain, &c.,

GEO. BANCROFT.

No. 128.

No. 454.] *Mr. Bancroft to Mr. Fish.*

AMERICAN LEGATION,
Berlin, January 25, 1873. (Received February 15.)

SIR: The landholders of Prussia have been dismayed at the great emigration from Germany to the United States at the present time. A Pomeranian landholder said to me, "I have the strongest sympathies with the United States, twenty-five per cent. of the inhabitants of my district of country have gone to them." In the Chamber yesterday the ministry was subjected to an interpellation on the subject. Count von Eulenburg, the minister of the interior, answered in the name of the government:

"The question is of extraordinary importance, cutting deep, and very worthy of consultation. On all sides the loss of population in the circles is observed and felt with pain, but the whole phenomenon is due to deeper causes than such as can be put aside by regulations of police.

"The causes which bring about emigration do not lie in the deterioration of the condition of our agricultural population, but in this, that in spite of its improvement, the strong desire has entered the minds of the population to remove where they think they can gain for themselves greater enjoyments of life, and it is not possible to counteract this desire in its principle. If we regard the principle of the free change of domicile as a just one, and apply it to a change of residence from one place to another in Germany, we cannot contest it where the change of domicile extends to emigration. Most of the propositions which have thus far been made cannot be reconciled with the existing laws. They violate the principle which lies at the foundation of the freedom of the change of domicile.

"The question, therefore, is if the evil could assume dimensions which would justify a change of the law. I believe that the solution of this question will require a long period of time, longer, perhaps, than the lives of the present generation. We must resist the pressure by laws which will make for the emigrants their old home more home like. We must aim at an improvement in industry, in roads, in railroads and canals, in the dwellings of the agricultural classes, the greater ease of

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gaining a domicile, in savings banks, &c.; in short, if emigration is to be checked, it must be done by a whole system of measures for raising the condition of the humbler agricultural classes—an object which legislation may promote, but depends chiefly on that class of population which has the greatest interest in retaining the population at home."

This authoritative speech of the minister proves beyond a doubt that there is no intention on the part of the government to limit the liberty of emigration, and that they will endeavor to counteract the strong attractions of our country only by just and wholesome legislation and by fostering the interests of industry and freedom in Germany.

The ministry meet the complaints of the landholders by urging the landholders to do more for the comfort and happiness of the men whom they employ.

I remain, &c.,

GEO. BANCROFT.

No. 129.

Mr. Bancroft to Mr. Fish.

No. 460.] AMERICAN LEGATION,

Berlin, February 10, 1873. (Received Feb. 28.)

SIR: I inclose to you, in translation, extracts from an elaborate editorial which appeared in the Spener Gazette of the 7th instant. The editor of that paper is a distinguished member of the Prussian Diet and of the German Parliament. I would by no means attribute too much importance to the article, yet I have judged it worthy of your attention as an indication that the German people, though they may prefer to see the Sandwich Islands remain independent, would wish them to form a part of our republic rather than of the dominions of any European power.

I remain, &c.,

GEO. BANCROFT.

[Extracts from an editorial article in the Spener Gazette of February 7, 1873.]

The immediate future of the Sandwich Islands has already been decided by the election of the Prince Lunalilo, known to be a friend to the United States, as king, by a plebiscite, the confirmation of which is as good as certain. The annexation of the islands will be thus deferred, though not made in the long run impossible, for they lie within the legitimate sphere of the United States, and in the hands of that power would do more for themselves and for the world than under their present rule. If the passion for annexation in the direction south of the present territory of the Union is but a bad inheritance of the slave oligarchy, on the other hand the wish for the possession of the Sandwich Islands has a deeper justification, for it will be for the benefit of all civilized nations.

The American Union was the first to awaken the Eastern Pacific countries out of their slumber, and with its ample resources to rouse them to activity, commerce, and industry, in short to introduce a modern development. California is already in regular steam communication with Japan and China; the inhabitants of the celestial empire have taken up the staff and are helping to people the United States. The Japanese are seeking to establish even closer relations with America and Europe. The Pacific Ocean enters into the history through the Americans; here is the legitimate field of their enterprise and power. Their shipping, which, in consequence of narrow laws and protective tariff measures, has been swept from the Atlantic, seeks now the Pacific, where it has all but exclusive empire. There the American mind works in the

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spirit of progress and of unshackled freedom. The Sandwich Islands are the "half-way house" between America and Asia. Hitherto this little kingdom of the Kanaka, with its 50,000 inhabitants, its constitutional apparatus of two chambers, its responsible ministry, and its supreme court, has been but an involuntary play-ball in the hands of English and American missionaries, planters, and merchants. A play-ball will it remain, though now the Americans have got the upperhand. Thus the inhabitants of the islands offer no impediment; they need not even be as the American journals desire, gently exterminated, since five deaths take place to every three births, so that a hundred years ago, in Cook's time, the population amounted to 400,000 souls. Moreover, the islands yield excellent cotton and sugar in abundance, and the harbor of Honolulu especially is the natural station for the American whalers, who can there most conveniently pass the summer.

The kingdom now established there is an artificial political creation, which will go to pieces whenever its founders no longer find it to their interest to maintain it. The Americans are now the most powerful of the foreigners in numbers, influence, and property. They acquire, by the election of Lunalilo, a still greater importance, and may quietly await the course of events. But however things may result, however long they may go on as they are, the annexation of the Sandwich Islands is a well-founded political requirement, for it is based upon sound principles and civilizing problems, the furtherance of which is also for the interest of Europe, and the absence of which, in the cases of San Domingo and of Cuba, makes the desire for their annexation nothing less than Quixotic.

No. 130.

Mr. Bancroft to Mr. Fish.

No. 468.] AMERICAN LEGATION,
Berlin, March 17, 1873. (Received April 9.)

SIR: On the 12th the session of the German Parliament was opened by the Emperor in person. No allusion is made in his speech to the rising conflict between the Papal and Imperial authority, but the session can hardly pass by without a renewed discussion of the subject of civil marriage and the custody of the registers of births, marriages, and deaths.

Another matter which deserves your attention is, the steady effort of France, of Russia, of Austria, and of the German Empire, to make their military power greater than ever. As far as the German Empire is concerned I verily believe the primary object to be the enjoyment of peace in security.

The speech is further marked by allusions to France in language that could not fail to be agreeable to the French government and people. This manifestation of mutual confidence has been followed by a treaty for the complete evacuation of the French territory by the German troops, signed on Saturday evening last at 5 o'clock by the Prince Chancellor of the German Empire and the Viscount de Gontaut-Biron, embassador of France at Berlin.

The four French departments which are still occupied by the German troops are to be evacuated on the 5th of July next, and the fortress of Belfort is to be given up, but Verdun will remain occupied by the Germans until September.

This early evacuation of France will have so controlling an influence on the action of its assembly and the nature of its government, that I sent you yesterday morning the following telegram:

FISH, *Secretary, Washington:*

Evacuation treaty signed Saturday. Germans evacuate France July fifth. Only Verdun occupied until September.

BANCROFT.

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The payment of the fourth milliard is to be completed in the first days of May. The payment of the fifth milliard is to be made in four monthly installments, beginning June 1. The treaty is particularly agreeable to the French, as relieving them from all anxiety as to the desire of the Germans to retain Belfort, the possession of which would be worth to Germany more than a milliard.

Your instructions, as far as No. 557 inclusive, have been received.

I remain, &c.,

GEO. BANCROFT.

No. 131.

Mr. Fish to Mr. Bancroft.

No. 561.] DEPARTMENT OF STATE,
Washington, March 22, 1873.

SIR: In consequence of the continued exaction, in Cuba, of oppressive fines against American vessels, General Sickles has been instructed to address a note to the Spanish government for the purpose of securing such a change in existing tariff-laws of Cuba as shall make the goods themselves, which may be imported into Cuba in American vessels, subject to any fines that may be exacted under the laws, rather than the vessels which import them. The reasons which have induced these instructions will sufficiently appear in the note of * instructions to General Sickles and the memorandum which accompanies it, copies of both of which are inclosed.

You are instructed to use your best endeavors to secure from the German government such instructions to its minister at Madrid as may enable him to make a simultaneous, if not identical, application to the Spanish government in support of the desired change, and you may deliver a copy of the instructions to General Sickles and of the inclosed memorandum to the minister for foreign affairs.

The interests of all the maritime powers whose mercantile marine is in the habit of trading with the Cuban ports are identical, and the modifications which are asked for are so reasonable and so just that it does not appear to be necessary for the Department to add anything further in support of them.

I am, &c.,

HAMILTON FISH.

No. 132.

Mr. Fish to Mr. Bancroft.

[Extract.]

No. 569.] DEPARTMENT OF STATE,
Washington, April 14, 1873.

SIR: In my No. 568, of even date, I have instructed you concerning the particular case of Klatt, referred to in your No. 466.

The general question which you suggest "as to the status of natives

* For the inclosures see under title Spain. Similar instructions were sent to General Schenck and to Mr. Andrews.

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of Germany who have renounced their allegiance to Germany, but have not yet resided five years in the United States, and are therefore not American citizens," deserves a separate consideration.

It is much to be desired that there should be a revision of the treaties affecting the status of naturalized Germans (other than Austrians) in the United States. They were all negotiated by you, and you are therefore doubtless familiar with their practical defects.

When they were negotiated several independent nations existed in the territory which now constitutes the German Empire. When the empire was formed we had entered into treaties for the regulation of naturalization with the North German Union, with the Grand Duchy of Baden, with the kingdom of Bavaria, with the Grand Duchy of Hesse as to the citizens of the parts of the Grand Duchy not included in the North German Confederation, and with the kingdom of Würtemberg.

The first defect in the existing treaties is that they are not co-extensive with the limits of the empire. The provisions of none of the existing treaties extend to Alsace and Lorraine, which form an integral part of the empire, and from which there has long been a large and valuable emigration to the United States, whose status deserves recognition and protection.

The next defect in the existing treaties is that they make different and, in some respects, conflicting provisions respecting the naturalized citizens. I will point out those inconsistencies.

For the sake of convenience and brevity I confine myself to provisions respecting the acquisition of American citizenship by Germans, it being understood that the provisions of the treaties are mutual unless otherwise stated.

1. Citizens of the North German Confederation *who become* naturalized citizens of the United States, and shall have resided uninterruptedly within the United States five years, shall be held by the North German Confederation American citizens, and shall be treated as such; but citizens of Baden, or of Würtemberg, or of Bavaria, or of Hesse, who *have* become or *shall* become such naturalized citizens, and have so resided, are to be held to be such citizens; (neither German country, however, undertaking to hold them to be such citizens beyond its own borders.) A protocol, signed at the same time with the Bavarian treaty, makes a still wider divergence in the case of that treaty. With this power we have agreed that the words "resided uninterruptedly" do not mean "a continued bodily presence," and therefore "a transient absence by no means interrupts the period of five years; and also that under certain circumstances a five years' residence shall no longer be required."

Thus on this most vital point of a naturalization treaty we find:

(*a.*) That there are two provinces unaffected by any treaty.

(*b.*) That the remaining states are affected by four treaties, each operative only within its own territorial sphere.

(*c.*) That of these four treaties, three expressly relate to past acts of naturalization as well as to future ones, while the fourth and most important one is entirely silent as to past acts.

(*d.*) And as to one treaty, we are bound to a construction of the word "uninterruptedly" which we have not a right to insist upon as to the other three treaties.

2. Crimes committed before emigration may be punished, in what was North Germany, on the return of the emigrant, saving always the limitation established by the laws of his original country. The other treaties add to this saving clause the words "or any other remission of liability to punishment." Bavaria adds to this that the returned emigrant is not

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to be made punishable for the act of emigration itself, and Baden makes special provisions concerning trial and punishment for non-fulfillment of military duty.

3. If a German naturalized in America renews his residence in North Germany without intent to return to America, he shall be held to have renounced his naturalization in the United States. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country. The same provision applies to Würtemberg as to a "Würtemberger," to Hesse Darmstadt as to a "Hessian naturalized in America but originally a citizen of the part of the Grand Duchy not included in the North German Confederation;" to Bavaria as to a "Bavarian," but as to the latter power it is declared that the article "shall only have this meaning, that the adopted country of the emigrant cannot prevent him from acquiring once more his former citizenship; but not that the state to which the emigrant originally belonged is bound to restore him at once to his original relation. As to Baden, it is only provided that the emigrant from the one state who is to be held as a citizen of the other state, shall not on his return to his original country be constrained to resume his former citizenship; yet, if he shall of his own accord reacquire it and renounce the citizenship obtained by naturalization, such a renunciation is allowed, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country.

Here, again, we find great defects, which it is very desirable to have remedied.

(*a.*) The provisions respecting residence in the old country and the re-acquisition of citizenship are unequal, and in the case of Bavaria uncertain.

(*b.*) Residence in other parts of Germany than that covered by the provisions of the particular treaty is inoperative to work a loss of the acquired citizenship, which is against the interests and the real intention of the United States and of Germany.

4. Each of these treaties contains a provision respecting existing extradition treaties. The treaties thus referred to appear to be identical in principle, except that the treaty with Baden contains no provision respecting the utterance of forged paper, while such a provision is found in all the other treaties. The extradition treaties with France, concluded in 1843 and 1845, which may be contended to be in force as to the portions of Alsace and Lorraine which were ceded to Germany, contain a different enumeration of crimes, and include rape and burglary as among the offenses for which an extradition may be claimed by one government of the other.

5. None of the treaties make a provision protecting the rights of inheritance of the emigrant, in cases like Klatt's, where the citizenship of one country is lost and that of the other is not yet acquired.

I have already expressed the opinion, in my No. 560, that it is desirable to revise these several treaties, and to reduce the respective rights and obligations under them to the simplicity and definiteness of a single, or rather of two, instruments.

The extension of the provisions of the naturalization treaty with North Germany would, in the opinion of the President, be the simplest and best way to solve that question, adding to it such a provision as might be necessary, under German laws, to enable Germans who have declared their intention to become citizens of the United States, but have not yet become such, to inherit real and personal estate in Ger-

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many; and also agreeing that its provisions are to extend to all past naturalizations. * * * * * * * * *

Should the German government be disposed to extend the naturalization treaty with North Germany in the manner above indicated, a power will be sent you to conclude a convention for that purpose.

I am, &c.,

HAMILTON FISH.

No. 133.

Mr Bancroft to Mr. Fish.

No. 472.] AMERICAN LEGATION,
Berlin, April 14, 1873. (Received May 1.)

SIR: Your instruction No. 561 has been received.

I have the honor of inclosing to you a copy of a note which I have in consequence addressed to this government, on the imposition of fines in Cuba for alleged violations of the customs regulations.

As soon as the Easter holidays are over the German Parliament will come together again, when the attention of the representatives most interested in foreign commerce of Germany may be directed to the subject.

I remain, &c.,

GEO. BANCROFT.

[Inclosure.]

Mr. Bancroft to Mr. Von Balan.

AMERICAN LEGATION,
Berlin, April 14, 1873.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor of calling the attention of his excellency Mr. von Balan, actual privy councillor charged with the conduct of the office for foreign affairs, to the onerous burdens to which the trade of foreign states is subjected by reason of the system of fines imposed by the authorities of Cuba for alleged violations of the customs rules and regulations.

These regulations are wrong in principle, for they impose a fine on the vessel for errors made by the shippers, over which the owners of the vessel can have no control, and for which they have no means of obtaining redress. The manner in which these regulations are enforced is also arbitrary.

As these burdens fall upon German ships not less than on those of the United States, the undersigned has been instructed to invite the attention of the German government to the grievances complained of, with the request for its co-operation in representations to the Spanish government for the purpose of causing a modification of the regulations, so as to simplify the formalities that at present are a source of incessant annoyance, useless expenditure, and capricious fines.

The inclosed document will show that the government of Sweden and Norway has already given the necessary instructions on the subject to its minister at Madrid.

His excellency Mr. von Balan will also find in the inclosed document an instructive memorandum handed to the American Government by the British minister at Washington, in June, 1872.

The undersigned values every occasion of renewing to his excellency Mr. Von Balan the assurance of his highest consideration.

GEO. BANCROFT.

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No. 134.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 475.] AMERICAN LEGATION,
Berlin, April 28, 1873. (Received May 15.)

SIR: On Thursday night the German Emperor, attended by the Prince of Bismarck, Field-marshal Von Moltke, and a large suite, left Berlin on a visit to the Emperor of Russia, at St. Petersburg.

I apprehend that the visit does not imply an intention on the part of the Emperors of formally discussing European or Oriental politics, still less any alliance for the future. Two Emperors, whose power extends over more than one-third of the population of Europe, cannot meet in friendship without drawing closer their personal relations, but neither of them would be inclined to organize government on the Bosphorus or in Spain.

* * * * * * *

With no help possible for Turkey in Europe, except by the transfer of the government to the hands of Christians, Russia will not be eager to establish on the west of the Bosphorus an independent Christian government. Nor can Germany at present undertake to introduce and protect the establishment of such a government.

Neither the Greek Emperor of Russia nor the evangelical Emperor of Germany is likely to think of disturbing Italy in its acquisition of the former states of the church.

As to France, the manner of its payment to Germany of the stipulated indemnity, under the wonderfully skillful lead of President Thiers, pledges the German government to a position of friendly neutrality; and I sometimes hear men in the highest position, and most sincerely devoted to the monarchical principle in Germany, declare that the republican government is the only one which is now fitted to France.

As to Spain, from the time when, in 1872, King Amadeo, misled by his own prejudices as a prince, and those of his wife as a Catholic, dismissed Zorilla for Sagasta, Spain has been driven like a ship without a rudder, and no foreign power is bold enough to assume the responsibility of becoming its pilot.

I therefore believe that there does not exist in the governments of Europe, I am sure there does not exist in this government, any disposition to willful interference in foreign states.

I remain, &c.,

GEO. BANCROFT.

No. 135.

Mr. Bancroft to Mr. Fish.

No. 478.] AMERICAN LEGATION,
Berlin, May 5, 1873. (Received May 21.)

SIR: I remain of the opinion contained in my No. 475, that the visit of the German Emperor to St. Petersburg has no special political importance, but must be regarded as a family visit which the German Emperor, now venerable for years, pays to his nephew.

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The most troublesome antagonist to the Spanish republic is Don Carlos, supported as he is by the whole weight of the Vatican. But this government, which takes the lead in opposition to ultramontane interference in affairs of state, has not shown, and will not show, favor to such interference in other countries.

Almost simultaneously with the visit of the Emperor to St. Petersburg, the report of the commission on the fortifications of the empire has been made. The eastern frontier is the most difficult of defense. Eight fortresses, most of them defending interior points, are doomed to be leveled, but the fortresses that protect the eastern frontier and the western are, without much regard to cost, to be increased so as to be able effectually to resist all the newly-invented means of attack, while nothing new is undertaken on the south and southeast; that is to say, all that skill and wealth can accomplish to put in a state of perfect defense the frontiers on the side of Russia, not less than on the side of France, is to be carried out, while nothing new is undertaken on the side of Austro-Hungary, as if all danger of collision with that power was at an end.

Your instructions as far as No. 571 have come to hand, and those which require action of the legation, especially No. 560, relating to the proposed treaty of commerce, and No. 564, relating to papers for Mr. Senator Anthony, and No. 38, (circular,) inclosing questions respecting coinage, and No. 569, on naturalization treaties and extradition treaties, are receiving all attention. The legation will be able to report on them at an early moment.

I remain, &c.,

GEO. BANCROFT.

No. 136.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 481.] AMERICAN LEGATION,
Berlin, May 8, 1873. (Received May 31.)

SIR: I have received your No. 569. The instructions of the Department I always endeavor to execute in strict accordance with its wishes and directions. In the present case I couple this instruction with your No. 560, which calls upon me for my opinions on the best manner to deal with the subjects treated of in No. 569, and regard, therefore, the latter number not as a final delivery of your judgment, but as an invitation to me to state my views on the subject under deliberation from the lights which I may have obtained here, and so to reserve the whole for your final decision.

I am unable to find in the treaties of naturalization all the defects which are suggested. On the contrary, I think that the most important of them do not exist and that others are of no practical moment. I ask leave, therefore, to narrate the circumstances under which the treaties were formed, and then to make one or two explanations as to the established interpretation of the treaties as made unanimously by the German anthorities.

Our German fellow-citizens suffered from the German laws, which, not taking note of their adopted nationality, held them still subject to the laws of Prussia and the other German states respectively, so that if one of them who had not performed military service returned to his

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original country, he was sure, if recognized, to be fined and held to be still liable to military duty.

For many years the United States had made attempts to procure, by agreement or by treaty, a mitigation of the Prussian military laws for their adopted German citizens, but had never succeeded in gaining the offer of anything more than the benefit of a Prussian law which set forth after what length of continued absence a Prussian should be considered as having lost his original nationality. In other words, nothing was conceded, although, through the ability, fidelity, and perseverance of my predecessors, the government had come to consider the question as one which it was desirable to settle.

This was the state of things when I arrived at Berlin. Taking advantage of the welcome heartily extended to a new comer, and an awakening inclination to cultivate nearer relations with the United States, I devoted myself immediately to this subject, which was of vital importance to the comfort of the millions of Germans who had adopted our country as their own. Deviating from the compromising system which had thus far guided our negotiations on the subject, I had in view to obtain for them absolute and total relief from the burden which had hung so heavily upon them, and to establish for them the complete and unqualified right as American citizens to visit or inhabit their native country free from all solicitude on the subject of military service.

I perceived at once that there was no chance of success in the negotiation so long as the question moved within the limits of the laws of the North German states, and the relief asked for appeared only as an exceptional remission of penalties established by exceedingly numerous stringent German laws. Those who were compelled to serve in the German army, and they formed all the people, were exceedingly jealous of any who escaped from that service.

The foreign office would hardly be willing to undertake to modify the Prussian military laws without taking the advice of the ministry of war, and its advice was sure to be adverse, and the ministry of the interior pronounced itself against the modifications which had been desired in the most energetic language.

I saw there was no chance of success except by an entirely new form, as one relating to the natural and inherent right of man to choose for himself the land of his dwelling-place. The Prince of Bismarck is, by nature as well as by observation, study, and reflection, ready to receive liberal ideas and to reduce them to practice when the time for it appears to have come. His conservatism consists in the wish that these reforms should be carried out under the lead of the conservative party, and his preference has always been to introduce through the conservative party the reforms which he undertakes, if they would but give him their countenance.

The idea of the natural right of emigration was from the first received by him with favor. It was also sure to be in itself acceptable to all branches of the liberal politicians of Germany. Moreover, it was an idea which, though never explicitly enounced in law, lay in the minds and habits of the German people from the time of the Reformation, when religious persecution compelled so many Protestants to leave their homes; and it had found some recognition, though a very imperfect one, in the treaty of Westphalia. But now, if the natural right of emigration could be affirmed by treaty, with the full recognition of all the consequences of acknowledging that right, the point for our German adopted citizens was won in its fullest extent. The wishes and instructions of your predecessor coincided exactly with my own judgment to press

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forward and settle this question without the delays and dangers that would attend a complex proposition which would in all probability have defeated our design. So I made it my rule simply to establish the right of emigration as an inalienable and natural right, not limited by any duty to the original government except where the performance of that duty had been formally initiated. Of this principle I was so happy as to obtain the recognition in Berlin, contrary to the expectation and prediction of every one of my colleagues at Berlin. Indeed, I was the only one accredited to the North German government who had confidence that I should succeed. The negotiation was powerfully aided by the clear perception and strong wish and paramount influence of the chancellor of North Germany, who saw and assented to the principle and its consequences, and next to him by the excellent sense and judgment and friendship to our country of Mr. Von Philippsborn, the ministerial director of one branch of the foreign office.

No sooner had the treaty received the sanction of the Senate of the United States on the one hand, and of the North German Parliament on the other, than I left Berlin to renew the same negotiations in those German states which were independent of North Germany. I was aided by being addressed to those powers with the rank of plenipotentiary, which was a mark of respect to their independence, and gave me readiest access to the sovereigns and their ministers. I adhered steadily to the principle of the natural right to emigrate, and to the consequences which flowed from that right. I had carefully studied the laws of the several states in so far as they bore upon my object. I resisted every reference to them which would interfere with that object, with unyielding perseverance. This being conceded, I took care not to involve myself in useless cavils at their own domestic laws, where they did not in the slightest degree conflict with the great purpose of our Government. This principle of the natural right to emigrate is incorporated into every one of the treaties with the four South German powers with logical strictness and clearness, and without the shadow of a compromise. At Stuttgart it was insisted that the unqualified right to emigration should cease in the autumn, that period of the year when the liability to be called into actual service under the law of Wurtemberg began. I claimed that the free right to emigrate should continue not merely to that date in the year when they became liable, but should continue to that later period in the spring of the following year, when the summons should have actually been issued. "You propose to us a treaty," said they, "in which you ask that every concession be made to you, and you offer to us nothing in return," and there was imminent danger that the negotiation would be broken off, unless this modification were admitted. But at Stuttgart, as at Berlin, this part of the question, though with the greatest difficulty at the former place, was taken out of the reach of the local law, and regulated according to the law of nature and nations.

So I was able to send home treaties from the four powers coinciding exactly in principle, and in the consequences to be deduced from the principle, with the treaty with North Germany.

The weeks during which I was engaged in those negotiations, notwithstanding the labor which was crowded into them, were made some of the pleasantest of my life by the never-failing courtesy and friendliness of the sovereigns and their ministers, manifested toward me personally and toward my country.

After this historical statement I beg leave to recur to the several points in which defects in the treaty are suggested, and I hope to be

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able to explain to the Department that in every important particular the defect has no real existence.

1. Under the letter

(*a*) The Department raises the question as to the two provinces of Alsace and Lorraine, and I am able to answer that this government is not disposed to deny to emigrants from those two provinces the benefits of the treaty with the North German Union, to which I desire to believe they have a right. But on this point I have addressed to the Department a separate letter.

(*b*) There are five treaties in operation, not four, and it is quite true that they operate only each within its own territorial sphere. This is not a defect, but a necessary incident to the fact that the five powers were, each for itself, absolutely independent.

(*c*) The Department next suggests the question whether the most important one "of the treaties is entirely silent as to past acts," and here I am able to assure the Department that the phrase in which the words "who become" are used is understood to be a description of persons, and to include past, present, and future. Moreover, the rule of international law in interpreting treaties made and signed in two languages is, that the words in the one language are explanatory of the words in the other, or, to use the words of the Chancellor Bismarck spoken in the North German Parliament in the debate preceding the approval of the treaty, ("Ausserdem declarirt sich der Text der einen Sprache durch den Text der andern Sprache volkommen authentisch,") "Besides, the text of the one language explains itself with perfect authenticity by the text of the other language." So that if a doubt cleaves to an expression in the one language, it is entirely removed if the expression in the other language is clear. In this case the German words, which are the treaty as much as the English words, are "geworden sind," so that it is absolutely certain that the treaty with North Germany is *not* silent as to past acts, but, on the contrary, both impliedly and expressly includes them. On this point all the five treaties, as interpreted and as intended to be interpreted, agree exactly.

(*d*) The courts of the United States at first decided that the required residence of five years before obtaining citizenship must be absolute, and afterward the laws of the United States and the decision of their courts modified this principle. The same vagueness that now attaches to the laws of the United States attaches to the German treaties; nor more nor less. There was no protocol with North Germany, but the treaty was explained in Parliament by the North German Union, and the Bavarian negotiator of the Bavarian treaty simply inserted Count Bismarck's words in the Bavarian protocol, making no difference, and intending to make no difference, between the two treaties.

2. It is true that the treaties with the four South German states expressly add in words that the returning emigrant shall be safe from punishment in all cases when a resident citizen enjoys such an immunity, but those forms of remission of liability to punishment, other than that of limitation, exist only by public acts, and are as such enjoyed by everybody, naturalized or native citizen of a foreign country, who comes to Germany. That the North German treaty includes every act limiting punishment is the official intepretation of the treaty. The co-referee, to whom the treaty was referred, uses the following language:

["Wenn das heimische Gesetz wegen Verjährung oder aus irgend einem andern Grunde keine Strafe erkennt, so kann eine solche auch nicht eintreten." "When the law of the country awards no punishment, whether on account of lapse of years or for any other cause, no such punishment can take place."

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This is the way in which the treaty was understood by the chancellor of the North German Union, by Mr. König, who made the treaty with me, by the German Parliament, and indeed by everybody in this country. On this point the five treaties are identical.

Not the Bavarian protocol only, but that of Darmstadt formally interprets the second article as securing the emigrant against punishment for the act of emigration itself. This protocol is but an interpretation, and a very essential and correct one. I had taken care to introduce the principle in the treaty itself with North Germany perfectly, clearly, and without ambiguity. The North German plenipotentiary might hesitate to put forward too glaringly the principle which it contained; but when it came to the interpretation of the treaty before the German Diet, Mr. König, speaking for the North German government, and in the presence of the chancellor, expressed himself as follows:

"Es ist ferner gefragt worden, ob der Artikel 2 auch den Fall einschliesst, wenn Jemand durch die Auswanderung selbst die Gesetze seines bisherigen Vaterlandes verletzt, also namentlich, wenn er sich durch die Auswanderung der Militairpflicht entzieht. Eben diesen Fall hat der Artikel decken sollen, und es wird also ein Deutscher, welcher in Amerika sich 5 Jahre aufgehalten und dort das Bürgerrecht erworben hat, bei der Rückkehr nicht mehr zur Untersuchung und Strafe wegen unerlaubter Auswanderung gezogen werden." "The German who has resided five years in America, and has there acquired the rights of citizenship, can on his return no longer be subjected to inquiry and punishment on account of emigration without leave."

The co-referee of the German Diet spoke to the Diet as follows:

"Ich komme nun zu dem zweiten Artikel. Das ganze Schwergewicht liegt in diesem zweiten Artikel und zwar in dem kleinen Wörtchen 'vor.' Wer nicht gewohnt ist, Verträge zu lesen, wird schwerlich, wenn er nicht die Motive zur Hand hat, verstehen können, was eigentlich dieser Artikel meint. Es heisst darin, bei Rückkehr eines naturalisirten Bürgers in seine Heimath solle er wegen Verbrechen, die er 'vor' seiner Auswanderung verübt hat, bestraft werden können; er darf also nicht bestraft werden wegen Verbrechen, die er durch die Auswanderung begangen hat, und gerade die Verletzung der Militairpflicht erfolgt erst durch die Auswanderung selbst." "The whole significance of the treaty lies in this second article and in the little word 'before.' The article means that on the return of a naturalized citizen to his home he can be punished only for punishable acts committed *before* his emigration. He therefore cannot be punished for anything that he may have done *by* emigration, and the violation of military duty takes place only by emigration itself."

Dr. Lowe, in the debate, addressing the chancellor, said:

"Aber das möchte ich bestimemt feststellen, dass der Herr Bundeskanzler zu meiner Freude sich dahin erklärt hat, dass *die Verfolgung wegen unbefugter Auswanderung nicht eintreten kann.*" "This I wish most particularly to establish, that the chancellor of the union, to my joy, has declared himself to this extent, that prosecution on account of unauthorized emigration cannot take place under any circumstances."

Upon this the president of the Diet awarded the floor to the chancellor, and Count Bismarck rose and said:

"Ich gebe diese von dem Herrn Vorredner gewünschte Erklärung." "I give the declaration desired by the member who spoke last."

Thus the five treaties are on this point absolutely identical. The chancellor, in granting us the treaty, designed to grant us all the relief that we asked for.

It is quite true that Baron Von Treydorf, one of the very best friends to the United States, and one of the ablest lawyers and statesmen of Germany, desiring to make the treaty so clear that it should need no protocol, inserted the full interpretation of the second article in the body of the treaty itself, but it added to the treaty nothing at all and subtracted nothing.

3. As it regards recovering German citizenship by a German who has

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become naturalized in America, all the powers have thus far acted upon the same rules. It is agreed that a German who has once passed out of his connection with a German state, cannot become again a German citizen without some express choice of his own, and without the consent of the government.

A. With regard to the reacquisition of citizenship the German states exercise only the same power which we exercise. We naturalize Germans after a short residence, if they serve in the Army or Navy, but that binds us only, and so it is with the German states.

B. So long as Bavaria, Würtemberg, and the rest were independent powers, the residence of a naturalized American there had just the same effect as if he had resided in Belgium or Holland. Now that they form part of the German Empire, no case has come, or is likely to come up, that involves the question whether the union brings with it a change in this respect. In practice it would be as easy to pass, for example, from Baden to Switzerland, as from Baden to Würtemberg; and so of the other powers, if the evasion of the treaty which is suggested is desired. So this point will never be of practical importance. I cannot see how American interests are thereby exposed to injury; because America, like Germany, always retains the power for itself to decide what length of absence, if any, shall forfeit American citizenship.

4. On the consolidation of the extradition treaties I have already made a report to the Department in a separate dispatch.

5. I do not regard it as a misfortune that no treaty provision exists protecting the rights of inheritance of the emigrant, where the citizenship of the one country is lost and that of the other not yet acquired, because this is now exceedingly well regulated by the laws of Germany for Germans. This is proved in the very case of Klatt, where his inheritance was held safely for him by the Prussian functionaries, and when he could not be found, and so could not appoint an agent, an offer was made to pay the property over to an official of the United States. I have the approbation of the Department for giving the opinion that that offer was properly declined. There is still another objection to a treaty stipulation on this point: our laws know nothing of such a process as releasing a United States citizen at short warning from his United States citizenship.

My excuse for troubling the Department with so long a dispatch lies in my wish to induce the Department to think well of the existing treaties of naturalization, because, at any rate, it would not be good policy to attempt to alter or to consolidate them. Many causes conspire to make this moment the most inauspicious one for bringing before the German Parliament any document exempting men of German birth from obedience to military laws. The many myriads that fell in the late war have brought the question home to every house, to every cottage in Germany. The landholders think the covenanted exemption is an ever-active persuader to the best young men of the interior to emigrate; rumor exaggerates the number of those who cross the water for a time, in order to escape their duties to their country by gaining a foreign nationality. These and other causes, in my judgment, forbid the thought of attempting to change the present treaties; besides, of what use is it to unify the treaties which are interpreted and executed exactly alike?

* * * * * * *

I remain, &c.,

GEO. BANCROFT.

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No. 137.

Mr. Bancroft to Mr. Fish.

No. 486.] AMERICAN LEGATION,
Berlin, May 26, 1873. (Received June 12.)

SIR: The session of the Prussian Diet, which came to a close the last week, was marked by legislation of the widest interest.

In pursuance of the design to consolidate the unity of the German Empire, it was necessary to take from the central Prussian Parliament its disproportionate influence and power. This could be done through two channels: first, a transfer of legislative power of a general or international character to the German Parliament; and next, by the process of decentralization, to distribute as far as possible the domestic affairs of the kingdom of Prussia to provincial bodies. To this end the Prussian Parliament, after a passionate, long-continued, and most obstinate opposition in the House of Lords, has introduced a new organization of the circles of the provinces by a system which has gone far toward establishing local self-government throughout the provinces and their subdivisions.

The new policy brought with it the abolition of what remained in several parts of Prussia of legislative authority attached to the possession of a certain class of estates. In Hanover and elsewhere this abolition had taken place before annexation to the kingdom of Prussia.

During the long and bitter struggle in the House of Lords, those members who sit in that house as representatives of the rural nobility were more obstinately opposed to progress than the hereditary peers. A part of the Prussian House of Lords consists of delegates chosen by landholders in whose families knightly estates have been held for at least one hundred years. It was from among these men that the liberal measures of the government encountered implacable opposition. Just so, in the House of Lords of Great Britain, the elective peers of Scotland and the elective peers of Ireland are more obstinately devoted to the party of the past than the hereditary peers. Among the latter, liberal men are found; the former, with great unanimity, resist all reforms.

The other class of measures is of still more general interest. The belief in the infallibility of a foreign and alien sovereign brings with it an allegiance and a subordination with no clearly defined bounds. The war of France against Germany was stimulated from the Vatican, and after the peace the same influence was exercised against the successful organization of the German Empire. Herein lay the seeds of a political conflict. Further, the great excommunication was used by the Catholic prelacy as an implement of strength and of aggression. Now the great excommunication interferes with the civil rights of the individual excommunicated, and the government would not tolerate the ban which interrupted social and commercial relations. The idea of the supremacy of the state is deeply fixed in the people of the German Empire, especially in Prussia. After much reluctance and deliberation the government resolved to assert the paramount authority of the laws of the state against every encroachment or disobedience growing out of a co-ordinate or pretended superior allegiance to a foreign alien power.

The Prussian constitution recognized the right of public worship by independent self-governing churches. It now adds that the right is to be exercised under the laws of the state and subject to the supervisions of the state as ordered by law. The idea of interfering with freedom of conscience is utterly disclaimed, but the rights of the state are to be

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maintained against attacks under the veil of religion. To carry out the objects of the ministry, the royal government proposed two laws: one to regulate the relations of the state to the education, appointment, and removal of the ministers of religion; the other to fix the limits of ecclesiastical disciplinary power. Henceforward every spiritual officer in a Christian church in Prussia must be a German and free from objections on the part of the government. He must have gone through a course at a German gymnasium, and a three years' course at a German university or in some seminary that the state regards as equivalent. The state does not assume the theological examination, but the candidate must pass an examination on the part of the state, extending to philosophy, history, German literature, and the classical languages; and no one but a person thus thoroughly educated can be appointed, even temporarily, a minister of religion. Nominations by ecclesiastical superiors must be communicated to the government, which any time within thirty days after a nomination may veto the appointment. All theological seminaries stand under the supervision of the state.

With regard to ecclesiastical discipline, punishments must be confined to the circle of religion; are not to be decreed for acts of obedience to the laws of the state or as menaces to prevent obedience to those laws; nor to influence the exercise of the right of suffrage. The disciplinary powers within the church itself, of the prelates over their subordinate officers and ministers of religion, must likewise find their limits in the rights of sovereignty of the state.

To give efficacy to these laws by a third enactment, a royal tribunal for church matters is established with appropriate jurisdiction.

Just as these laws are promulgated here, the sad news arrives from France that a coalition of its three hostile monarchical factions has overthrown the government of Thiers, which was just promising rest to the country under a regular republican form of government. The only policy in which all three parties of the pretenders are united is that of ultramontanism. The feud between the two branches of the Bourbons has never been reconciled, and between them and the Bonapartists never can be reconciled. For the moment, the clerical influence predominates, but not with healing on its wings. It will keep the wound open rather than let it be healed by the establishment of a republic. The present President of France is a duke, with a family devoted in the extremest degree to the Catholic church and papal pretensions, and, in the consciousness that he has not France with him, gives a brutal admonition that he has the army at his beck. The leading minister is in like manner a duke, and of principles which are known to the world, because he is an author, and in a history of the church he has made the clerical sentiment paramount to historical criticism.

France, after nearly a century of convulsions and revolutions, is subjected again to the dangers of civil war, and this time by a coalition of its clergy and its rival pretendants. The coalition may cry out for monarchy in the abstract, but cannot proceed another step forward toward the establishment of monarchy without falling to pieces.

I remain, &c.,

GEO. BANCROFT.

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No. 138.

Mr. Bancroft to Mr. Fish.

No. 487.] AMERICAN LEGATION,
Berlin, June 2, 1873. (Received June 20.)

SIR: To-day the diplomatic corps at Berlin was presented to the Shah of Persia. The visit of the sovereign of that kingdom in Europe takes place, I believe, for the first time since Xerxes crossed the Bosphorus. But that rich country, with a fertile and unexhausted soil, now becomes of importance, and, whether it will or no, is forced into near relations with the European powers. Bounded by Russia on the one side and by a country under the protection of Great Britain on the other, it has no choice, at a time when Asia is falling under the influence of the dominion of those two European powers, but to become familiar with European politics and European culture.

Soon after 12 the Shah entered the saloon of the Royal Castle, in which the corps was assembled, studded all over with diamonds, rubies, and precious stones, in rows on his breast, as buttons to his epaulettes, ornaments to his sword-belt in front and rear, on the hilt of his sword and all the length of the scabbard, and an aigrette of diamonds on his tiara. I have heard some, who professed to be good judges, estimate the value of the stones at twenty millions of francs. The most moderate say more than ten millions of francs. He had on the one side of him an interpreter, on the other his Persian secretary of state, who spoke French very well. Of Persians there were besides in the room the brother of the Shah and about twenty others of the great dignitaries of his kingdom. In these I thought I could plainly see the distinctive marks of two different races. The features of some of them were of the Aryan type, of others, as it seemed to me, clearly Semitic. The Shah passed rapidly along the diplomatic circle, speaking a few words to each chief. His gait was singular and far from graceful or easy; his speech short and deep in its tones, abrupt, thrown forth rather than uttered, very unlike the manner of speech of the rest of them. Of me he inquired after the health of the President, and after my reply he bade me send to the President a message of the interest he took in his welfare. Two reasons, he said, stood in the way of his visiting the United States: first, he was obliged to make haste and return to his own dominions, and then he could not bear the thought of so long a journey by sea as the passage across the Atlantic.

The whole interview lasted less than an hour. The result of the Shah's visit to the European powers may be to direct their attention to his dominions more than heretofore, and in this way to add something to his security.

I remain, &c.,

GEO. BANCROFT.

No. 139.

Mr. Fish to Mr. Bancroft.

No. 583.] DEPARTMENT OF STATE,
Washington, June 4, 1873.

SIR: I have received your dispatches, 480 and 481, and have read with great attention the reasons which you give in the latter for not

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pressing at present for the unification of the naturalization treaties with Germany.

It is much to be regretted that the present government at Berlin is not disposed to listen favorably to the suggestion which you were authorized to make, that the naturalization treaty with the North German Union should be extended over the empire.

The circumstances under which the existing treaties were negotiated, necessarily made them what they are. To have gained at that time the recognition of the principle of the right of emigration was a triumph of which every one connected with it has good right to be proud. But the fact that the negotiations were made with different and independent governments, each with its own peculiar views, has been the cause of the divergencies referred to in my No. 569. Notwithstanding what you say in your No. 480, I still think it would be better to remove these differences, and to have but one rule for all Germany. And I had thought that, as your name is identified with the recognition of the great principle upon which the treaties were founded, it was due to you that the complete structure which must inevitably come should bear your signature. I regret to learn from you that there is no present probability of such a result.

A German can now come to America, obtain his naturalization papers through the operation of our laws, return to Germany and reside there indefinitely as an American citizen, provided he does not reside the requisite time for renunciation in the territories under the jurisdiction of the particular power of whom he was formerly a subject. It is true that such a course would be a fraud upon the United States, and a fraud upon the German Empire. We should be deprived of the resources of the naturalized citizen towards the support of the state; Germany would be deprived of the right to call upon him for her defense. It is for the interest of neither to perpetuate this. We are ready on our side to remedy it by extending the provisions of the treaty with North Germany over the empire, as I have already said; but if our proposition will not be listened to, we must await the return of a better reason. Meanwhile it is not wise to take any half-way measure as to Alsace and Loraine.

I am, &c.,

HAMILTON FISH.

No. 140.

Mr. Bancroft to Mr. Fish.

No. 489.] AMERICAN LEGATION,
Berlin, June 16, 1873. (Received July 3.)

SIR: The Shah of Persia, as he passed through Germany, did not make a very favorable impression on the people. There were in his suite Persians speaking French thoroughly well and familiar with European culture; he himself had rather the air of a semi-civilized chieftain. His powers of observation could not be rated very high; he seemed rather apathetic, and indisposed to the exertion of mind which would

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have been necessary in order to understand the high condition of European industry; and in his intercourse he had no natural refinement to make up for his ignorance of European breeding, having rather the manner and willfulness of a spoiled child.

Once when he was to breakfast in a very large company, he looked at the table, which was partly garnished, and seeing strawberries, took a fork and fed himself with them from the dish; then, not liking the aspect of the breakfast-room, he said he would go to the brighter and more cheerful orangerie, and his breakfast might be sent after him, which was done; but this oddity may have had its motive in some religious scruple, for he piques himself on being the true spiritual head of the Mahommedan religion. In the evening there was a grand festival in the new palace at Potsdam. There were illuminated grounds, fountains of light, thousands of lamps in the walks of the garden and among the trees, with all the magic effects that can be produced by artificial light in the darkness of evening. In this land of military precision he let the company, among whom were the Empress, the Crown Prince and Princess, and all the court but the Emperor, wait for him more than an hour.

The Emperor of Germany received the Shah on his arrival; but, from ill-health, soon left him to the care of the Empress and the Crown Prince. The illness of the Emperor is the result of the fatigues of his visit at St. Petersburg in the season of the year when the climate of that city is most dangerous. On the return journey he was attacked with influenza, and, though he threw it off easily, he recovers his wonted strength but slowly. His excellent physician watches over him very strictly; and, with due caution on his part, there is no ground of apprehension respecting his speedy and complete recovery.

The German Parliament is still in session, but the progress of business meets with impediments. For a quorum, a majority of the whole house is required. Now, very many of the members are men of the highest culture, but of very moderate incomes, and as the members of the Diet serve without pay, constant attendance is a great burden to them. The members of the British House of Commons in like manner serve without pay; but no more than forty are required to be present for the transaction of business. It seems probable either that a moderate compensation must be conceded to the members, or that a reduced number must be accepted as a quorum, and the latter alternative is not likely to find acceptance with the people. The amount of pay which is thought sufficient is very moderate, from three to four dollars a day; and for traveling expenses no more is asked than the railroad fare.

I remain, &c.,

GEO. BANCROFT.

No. 141.

Mr. Bancroft to Mr. Fish.

No. 498.] AMERICAN LEGATION,
Berlin, July 12, 1873. (Received July 31.)

SIR: Of the enactments of the last session of the Imperial Diet, one law capitalized the whole amount to be paid as pensions to officers and soldiers or their families on account of the late war, and the sum thus

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set apart has been, or is to be, invested in permanent securities. Among those which are selected are the new five per cents of the United States.

Another law rests on the principle of admitting iron free from duty from and after 1877. The party of free trade is very strong in Germany, but was not able to carry the immediate abolition of all duties on iron. Our manufacturers of reapers and other implements of agriculture will in due time profit by this repeal.

The experience of the Austro-Hungarian Empire on the one side, and the German Empire on the other, shows the boundless mischief attendant on a continuing paper currency, contrasted with the solid and efficient industry resting on a currency of gold and redeemable paper. The Diet, finding that some of the smaller States in the empire clung tenaciously to their right of issuing government notes, and being resolved to guard against every danger that could be apprehended from paper currency, amended the bill for introducing the new coinage by a clause calling in all governmental notes before the 1st of January, 1876. The largest amount of government issues which was thought of from that time was no more than 40,000,000 of thalers, or about a thaler per head for all the population. A similar reduction of our greenbacks would leave us $40,000,000. Further, the banks, after the 1st of January, 1876, are to issue no notes of a less amount than a hundred marks—that is to say, twenty-four American gold dollars. These measures show the prudence of the German people; learning wisdom from the misfortunes of their neighbors, and adopting a system which will save them from the disasters of a fluctuating currency, and the danger of that worst enemy to industry, a paper currency. Their writers on political economy build on the authority of American statesmen of all political parties before our late civil conflict. The ablest pamphleteer on the bank question in Germany has taken for his motto the words of Daniel Webster: "Paper circulation is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow." A hope is sometimes expressed that the settlement of the banking question in Germany may exercise a salutary influence on our own country. The most ardent supporter of our speedy return to specie payments can find no more authoritative argument than the contrast between these contiguous empires. Paper money fostered speculation in Austria till the country has been struck by a calamity which threw companies whose stock in the aggregate amounted to many hundreds of million of dollars into absolute bankruptcy or a crippled condition, while the same crisis passed over Germany with little other effect than a momentary strain of private credit. In Vienna, the government was led into the fatal measure of seeking to relieve present distress by larger issues of irredeemable paper. In Germany, the issues of public paper are greatly diminished, and the circulation of the specie-paying banks prospectively curtailed. In the former case, new uncertainties, and false, passionate speculation, destructive of the prosperity of manufactures, come from the increase of inconvertible paper. In the former, the stern and honest measures of the government receive from the people a hearty welcome, and inspire confidence in a continuance of remunerative results in all the spheres of industry.

I remain, &c.,

GEO. BANCROFT.

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No. 142.

Mr. Bancroft to Mr. Fish.

No. 500.] AMERICAN LEGATION,
Berlin, July 18, 1873. (Received August 7.)

SIR: The Department in its instruction numbered 561 directed me to invite the government of the German Empire to join in a remonstrance against custom-house regulations in Cuba, which oppress foreign commerce. The government has now verbally given a preliminary answer, and it is, that as they have not yet recognized any government of Spain since the retirement of King Amadeo, they cannot well negotiate with the existing government. Spain, to be sure, has a minister at Berlin, but the German government, though it sometimes treats with him on minor matters, opens with him no business of high importance. I have repeatedly requested the member of the German council for the Hanseatic states to join with me in bringing the subject referred to to the attention of this government. But the merchants of the great centers of German commerce have not made complaints on the subject, and the interposition of Mr. Kruger was therefore not of much weight. He has now a leave of absence, and I hope that he will take the occasion to consult directly the merchants of Hamburg.

I remain, &c.,

GEO. BANCROFT.

No. 143.

Mr. Bancroft to Mr. Fish.

No. 501.] AMERICAN LEGATION,
Berlin, July 19, 1873. (Received August 7.)

SIR: The instruction of the Department numbered 588 was received on the 10th of July, and I took the earliest opportunity to bring to the attention of the German foreign office the proposal of the Japanese government to the Italian to permit Italians to circulate freely in the empire under certain conditions.

Mr. Von Balan informs me that the German government takes exactly the same view of the matter which you have taken. His words were, "The foreign powers must stand together on every question of their relations to the Japanese government." The view of the German government has been communicated to the Italian minister at this city, so that the Italian government is perfectly well informed of the policy adopted here. I am glad to be able to report on this occasion, as on every other since I have resided at Berlin, that the East Asiatic policy of the German government is identical with that of our own.

I remain, &c.,

GEO. BANCROFT.

No. 144.

Mr. Bancroft to Mr. Fish.

No. 507.] AMERICAN LEGATION,
Berlin, August 1, 1873. (Received August 22.)

SIR: The newspapers have published a story that the Duke of Hesse Darmstadt, on celebrating the twenty-fifth anniversary of his reign, had

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pardoned two criminals on condition of their emigrating to America. After the correspondence that has passed between the Darmstadt government and the legation at Berlin, I could not believe it; but I thought proper to bring it to the notice of the Grand Duke's ministry. I have received a reply authorizing me officially to deny the truth of the allegation.

I remain, &c.,

GEO. BANCROFT.

No. 145.

Mr. Bliss to Mr. Fish.

No. 508.] AMERICAN LEGATION,
Berlin, August 4, 1873. (Received August 22.)

SIR: This government is now seriously considering what steps shall be taken for the relief of the deficiency of agricultural laborers.

The urgent importance attached to the matter is shown by the fact that a commission has been appointed, which is now in session, consisting of one member from each department of the government, designated by its chief. I do not recall any previous instance here of a body so elaborately constituted.

Although the government is evidently well aware that mere measures of direct repression of emigration will be insufficient to remedy the evil, yet there is little doubt that among the recommendations of the commission will be that of such a change in the laws as will subject the emigrant agents to more stringent control, if not prohibit them altogether.

Meanwhile the Saxon government, without awaiting the result of these deliberations of the government of the empire, has already issued an order expelling from its territory all agents of emigration who do not possess the right of German citizenship.

Should it be sought to inforce this order upon any citizen of the United States, the legation will not fail to make known to the German government its expectation that due notice of the fact and of its grounds shall be given by that government to the Government of the United States.

I have, &c.,

ALEXANDER BLISS.
Chargé d'Affaires.

No. 146.

Mr. Bancroft to Mr. Fish.

No. 516.] AMERICAN LEGATION,
Berlin, September 1, 1873. (Received September 18.)

SIR: I am very sensible of the most friendly and approving language in which Mr. Cushing writes of my labors in the San Juan arbitration.

But I must ask leave to correct one grave error into which he has fallen. Mr. Cushing has observed that in my memorial on the Haro as our boundary I made no use of the pretended settlement of the

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boundary-line between Canada and the possessions of the company of Hudson's Bay; and, condemning my conclusions as to that settlement, elsewhere expressed, he writes that I was misled by Mr. Greenhow. In Mr. Greenhow's History of Oregon, second edition, page 436, he, in a note marked by thorough research, just criticism, and good judgment, establishes, as I think, that the forty-ninth parallel of latitude was not selected as the line of separation between the French and British territories in North America by commissaries appointed agreeable to the treaty of Utrecht. In the passage of my writing which Mr. Cushing quotes, I named Mr. Greenhow as an authority, because he was the first who put the matter before the public in a clear light. Additional grounds existed for the statement which I had made. A search in the French archives had failed to find any evidence of the appointment of a boundary commission under the treaty of Utrecht. Further, the most thorough search has now been made in the British archives on the question, and the result establishes the statement of Mr. Greenhow, in which I concurred. After the treaty of Utrecht, "in the Northwest, where Canada joined the possessions of the company of Hudson's Bay, no treaty, no commission appears to have fixed the limits of the possessions of France."

I remain, &c.,

GEO. BANCROFT.

I.

Extract from a letter from Lord Tenderden to Mr. F. O. Adams, August 11, 1873.

I have had a hunt made for the report of the commissioners under the treaty of Utrecht which Mr. Bancroft wishes to refer to, but we have not got it here, and have asked the rolls to look for it in the record office, as every one who knows anything about anything is out of town. This may take time. We will root it up somehow.

II.

Mr. Adams to Mr. Bancroft.

BRITISH EMBASSY, *Berlin, August* 30, 1873.

MY DEAR MR. BANCROFT: I beg to inclose to you herewith a copy of a letter which has been forwarded to me by Mr. Hammond in the absence of Lord Tenderden, respecting the matter about which I inquired according to your wish.

Believe me, &c.,

F. O. ADAMS.

III.

Mr. Sainsbury to Sir Thomas D. Hardy.

PUBLIC RECORD OFFICE, *August* 16, 1873.

DEAR SIR: With reference to Lord Tenterden's letter to you of the 8th instant, requesting that a search be made in the French correspondence relating to the treaty of Utrecht, a list of which is contained on page 94 of the catalogue of foreign-office records in the custody of the record office, and to ascertain whether commissaries were ever appointed under the 10th article of the treaty of Utrecht, and if so, whether they came to any final arrangement with regard to the boundaries between Hudson's Bay and the places appertaining to the French, and in accordance with your instructions, I have the honor to report that I have made a careful search through the correspondence

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in question, but do not find that commissaries were appointed under the 10th article of the treaty of Utrecht, up to August, 1714, the last date of the correspondence in question, although the time "within a year" had long expired, when, by the terms of the 10th article of the treaty, "the commissaries were to be named by each party." In a memorial of the governor and company of adventurers of England, trading into Hudson's Bay, to the lords of trade and plantations, in reference to the surrender of the Straits and Bay of Hudson, the settlement of the limits between the said bay and the places appertaining to the French, and satisfaction for depredations committed by the French, the memorialists state that the first of these articles, the surrender, has been made according to the tenor of the treaty, but that "the other two, viz, the running a line betwixt the English and French territories and the making reparation to the company for their losses and damages, *yet remain to be done.*"

This memorial is indorsed as received on the 13th August, 1719, more than six years after the signing of the treaty of Utrecht.

I have, &c., &c.,

W. NOEL SAINSBURY.

No. 147.

Mr. Schlözer to Mr. Fish.

GERMAN LEGATION,
Washington, Dec. 9, 1872. (Received Dec. 9.)

SIR: A few months ago the rumor was circulating in the American press that in several parts of Germany the custom was still existing to pardon criminals upon the condition of their emigration to the United States.

As an instance it was told that the government of Gera had pardoned in such manner the barber Sonnewend, a murderer, the laborer Peter Bender, a robber, both sentenced to the penitentiary for life, and that these two criminals were transported the 5th of last September from Gera in chains to Hamburg to be transported to New York.

This news originated from a paper called "The Gera Advertiser." I asked immediately my government to clear up this matter.

Prince Bismarck has now communicated to me that a barber Sonnewend and the laborer Peter Bender are completely unknown in Gera and that, in consequence, such persons have not been pardoned and have not been transported from Gera to Hamburg.

Besides, a newspaper of the name, "The Gera Advertiser," is not existing.

I believe it to be my duty to acquaint you respectfully with the foregoing facts.

Accept, &c.

SCHLÖZER.

No. 148.

Mr. Schlözer to Mr. Fish.

GERMAN LEGATION,
Washington, Dec. 27, 1872. (Received Dec. 28.)

SIR: With reference to my note of the 9th instant, concerning the false rumors which have circulated about two criminals, who were said to have been pardoned by the government of Gera (Reuss) upon the condition of their emigration to the United States, I have now the

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honor to inform you respectfully that those rumors about the Mecklenburg case are also entirely without any foundation.

I take the liberty to inclose herewith a copy of a letter from the government of Mecklenburg of the 22d ultimo, directed to Prince Bismarck, in which it is stated that a criminal of the name of Dreyfuss has never been in the prison of Dreybergen, and that also the alleged paper, *Mecklenburgische Nachrichten*, (Mecklenburg News,) from which the rumor was said to have been taken, is not existing.

Accept, &c.

SCHLÖZER.

SCHWERIN, *November* 22, 1872.

According to your highness's note of the 17th instant, two instances have been mentioned by the American press in which German criminals are alleged to have been pardoned on condition of their emigrating to America.

One of the cases mentioned, the account of which purports to have been taken from the *Mecklenburgische Nachrichten*, is that of one Johannes Dreyfuss, who was sentenced, in the year 1864, to imprisonment for life for murder and arson. It is stated that this man was pardoned on the condition above named, and that he emigrated to Chicago.

The undersigned minister, in view of the above communication, addressed the minister of justice, and is now in a position to inform your highness that a criminal named Dreyfuss has never been confined at Dreybergen, that no such paper as the *Mecklenburgische Nachrichten* exists, and that, in short, the statement concerning this matter, which has been published by the American press, must be characterized as totally destitute of foundation.

The undersigned has the honor to communicate the above to your highness that you may, if you think proper, inform the imperial envoy at Washington of the total lack of foundation for the statement in question.

The minister of foreign affairs of the Grand Duchy of Mecklenburg:

By his representative.

(Signature.)

No. 149.

Mr. Davis to Mr. Stumm.

DEPARTMENT OF STATE,
Washington, July 25, 1873.

SIR: In reply to the application made by you on the 2d instant, in behalf of the government of Germany, for the extradition, under the treaty of July 16, 1852, between the United States of America and Prussia and other states of the Germanic Confederation, of Stupp *alias* Carl Vogt, an alleged criminal, I have the honor to state that the case has received the serious consideration of this Government, and has been submitted to the Department of Justice for the opinion of the legal advisers of the Government. I have also felt it due to the importance of the question, and a proper act of courtesy to your government, to submit all the papers to Mr. Fish, and to take his instructions regarding the disposition of the case.

It appears that the crimes of which Stupp *alias* Vogt is accused were committed in Brussels, in the kingdom of Belgium, without the territory and outside of the jurisdiction of the states parties to the treaty.

The preamble of the treaty declares its object to be "the better administration of justice and the prevention of crime within the territories and jurisdiction of the parties respectively." It does not propose to regulate the administration of justice, or the prevention of crime in

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other territories, or within the jurisdiction of other states, than those parties to the treaty.

The first article of the treaty provides for the delivery up to justice, by the parties respectively to the treaty, of persons charged with certain enumerated crimes "committed *within the jurisdiction* of either party."

The crimes charged against Stupp *alias* Vogt are such as are enumerated in the treaty, and had they been committed within the territories and jurisdiction of either of the states parties to the treaty, there would be no hesitancy or delay on the part of this Government in the delivery of the alleged criminal. They were not, however, committed within the territories or jurisdiction of Germany, but, as I have already noted, within the territory and jurisdiction of Belgium, with which state no treaty of extradition with the United States exists.

The opinion of the Law Department of the Government, therefore, is that the case of Stupp *alias* Vogt is one not within the contemplation and provisions of the treaty.

The heinous nature of the crimes charged against Vogt has inclined this Government to seek some construction of the treaty which might justify the surrender of the alleged criminal, for the purpose of subjecting him to an impartial trial, and to the punishment which, if guilty, he so richly merits. But it is forced to the conclusion that the treaty does not contemplate crimes committed elsewhere than within the territorial and exclusive jurisdiction of the parties thereto, and does not provide for the surrender of persons charged with crimes committed outside of such jurisdiction.

Anxious as is this Government at all times to aid in the administration of justice and the prevention of crime, and desirous as it has ever shown itself to be to comply with the wishes of the government which you so ably represent, it is with regret that it finds itself constrained by the terms of the treaty in this case, and that it cannot grant the warrant of surrender which is asked.

I avail myself, &c.

J. B. C. DAVIS,
Acting Secretary.

XV.—GREAT BRITAIN.

No. 150.

General Schenck to Mr. Fish.

No. 316.] LEGATION OF THE UNITED STATES,
London, October 7, 1872. (Received October 23.)

SIR: You have doubtless received a copy of the last Austrian "Red Book," and you will have observed among its contents the correspondence of Count Beust with his government, in which he takes decided ground against the rules expressed in the sixth article of the treaty of Washington. Mr. Delaplaine, our secretary of legation at Vienna, sent me a copy a few days ago, and I have, with my little knowledge of German, made an imperfect translation of these letters. But you will have it better done at the Department.

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Count Beust objects that the rules thus declared would narrow the rights of neutrals, and give undue advantage to belligerents. The general adoption of them, he says, would obstruct and even repress maritime progress; and he advises against the acceptance of "any modification of maxims in the law of nations not demanded by the natural development of international rights."

This hostility to the rules agreed on between the United States and Great Britain it seems will not be confined to Austria. I learned from Lord Granville some time since that the German embassador at this court, Count Bernstoff, had been talking with him about them, and expressing the probable opposition to them of his government when they should come to be proposed for the acceptance of other powers.

Lord Granville, in the same conversation, the subject being adverted to, asked me my opinion as to them, taking up again the consideration of the form of the joint or identic note to be agreed on for bringing the rules to the notice of other governments, and requesting their assent to them. This was after the removal of all difficulties in the way of the arbitration at Geneva, and when the tribunal was advancing toward a decision. I told him I thought you would deem it inexpedient to resume with him your interrupted correspondence on that point just at a time when some award was likely to be made involving an interpretation and application of these rules; and considering that whatever occurred or was decided at Geneva might have some effect on the minds of those to whom they would be presented for acceptance, I said that the other powers would, under these circumstances, naturally wait for the light to be thrown on the question by the judgment of the arbitrators, and nothing would be gained by any antecedent movement. This was his lordship's own view also of the matter.

The way is open now, I suppose, for taking up the subject again, if you think proper to do so, where it was left off last December.

I have, &c.,

ROBT. C. SCHENCK.

No. 151.

Mr. Moran to Mr. Fish.

[Extract.]

No. 419.] LEGATION OF THE UNITED STATES,
London, November 21, 1872. (Received December 7.)

SIR: * * * * * * *

I forward herewith * * for your information * * a copy of the * * [extradition] act of 1870. * * * *

I have, &c.,

BENJAMIN MORAN.

[Inclosure.]

Extradition.

CHAPTER 52.

AN ACT for amending the law relating to the extradition of criminals, (August 9, 1870.)

Whereas it is expedient to amend the law relating to the surrender to foreign states of persons accused or convicted of the commission of certain crimes within the juris-

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diction of such states, and to the trial of criminals surrendered by foreign states to this country:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PRELIMINARY.

1. This act may be cited as "The extradition act, 1870."

2. Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, Her Majesty may, by order in council, direct that this act shall apply in the case of such foreign state.

Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London Gazette.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals:

(1.) A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on *habeas corpus*, or to the secretary of state, that the requisition for his surrender has in fact been made with a view to try or punish him for an offense of a political character.

(2.) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state, or an arrangement that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offense committed prior to his surrender, other than the extradition crime proved by the facts on which the surrender is grounded.

(3.) A fugitive criminal who has been accused of some offense within English jurisdiction not being the offense for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise.

(4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

4. An order in council for applying this act in the case of any foreign state shall not be made unless the arrangement—

(1.) Provides for the determination of it by either party to it after the expiration of a notice not exceeding one year, and—

(2.) Is in conformity with the provisions of this act, and in particular with the restrictions on the surrender of fugitive criminals contained in this act.

5. When an order applying this act, in the case of any foreign state, has been published in the London Gazette, this act (after the date specified in the order, or if no date is specified, after the date of the publication) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order, apply in the case of such foreign state. An order in council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this act, and that this act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

6. When this act applies in the case of any foreign state, every fugitive criminal of that state who is in, or suspected of being in, any part of Her Majesty's dominions, or that part which is specified in the order applying this act, (as the case may be,) shall be liable to be apprehended and surrendered in manner provided by this act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

7. A requisition for the surrender of a fugitive criminal of any foreign state who is in, or suspected of being in, the United Kingdom, shall be made to a secretary of state by some person recognized by the secretary of state as a diplomatic representative of that foreign state. A secretary of state may, by order, under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

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If the secretary of state is of opinion that the offense is one of a political character, he may, if he thinks fit, refuse to send any such order, and may also, at any time, order a fugitive criminal accused or convicted of such offense to be discharged from custody.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in, or suspected of being in, the United Kingdom, may be issued—first, by a police magistrate, on the receipt of the said order of the secretary of state, and on such evidence as would, in his opinion, justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and, secondly, by a police magistrate, or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a secretary of state shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to a secretary of state, who may, if he think fit, order the warrant to be canceled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a secretary of state, shall be brought before some person having power to issue a warrant under this section, who shall, by warrant, order him to be brought, and the prisoner shall accordingly be brought, before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a secretary of state shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a secretary of state an order signifying that a requisition has been made for the surrender of such criminal.

9. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offense committed in England.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused, or alleged to have been convicted, is an offense of a political character, or is not an extradition crime.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison; but, otherwise, shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex house of detention, or to some other prison in Middlesex, there to await the warrant of a secretary of state for his surrender; and shall forthwith send to a secretary of state a certificate of the committal, and such report upon the case as he may think fit.

11. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*.

Upon the expiration of the said fifteen days, or, if a writ of *habeas corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a secretary of state, it shall be lawful for a secretary of state, by a warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed, and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of *habeas corpus* is issued after the decision of the court upon the return to

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the writ, it shall be lawful for any judge of one of Her Majesty's superior courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a secretary of state, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

13. The warrant of the police magistrate issued in pursuance of this act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed.

14. Depositions or statements on oath, taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this act.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be deemed duly authenticated for the purposes of this act, if authenticated in manner provided for the time being by law or authenticated as follows:

(1.) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued;

(2.) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require; and,

(3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place, and if in every case the warrants, depositions, statements, copies, certificates, and judicial documents, (as the case may be,) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state, all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

CRIMES COMMITTED AT SEA.

16. Where the crime in respect of which the surrender of the fugitive is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

(1.) This act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this act, except the part re'ating to the execution of the warrant of the police magistrate.

(2.) The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime.

(3.) If the fugitive criminal is apprehended on a warrant issued without the order of a secretary of state, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute, who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

FUGITIVE CRIMINALS IN BRITISH POSSESSIONS.

17. This act, when applied by order in council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications, namely:

(1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession, may be made to the governor of that British possession by any person recognized by that governor as a consul-general, consul, or vice-consul, or, (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made,) as the governor of such colony or dependency.

(2.) No warrant of a secretary of state shall be required, and all powers vested in or acts authorized or required to be done under this act by the police magistrate and the secretary of state, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone.

(3.) Any prison in the British possession may be substituted for a prison in Middlesex.

(4.) A judge of any court exercising in the British possession the like powers as the court of queen's bench exercises in England, may exercise the power of discharging a criminal when not conveyed, within two months, out of such British possession.

18. If, by any law or ordinance, made before or after the passing of this act by the legislature of any British possession, provision is made for carrying into effect, within such possession, the surrender of fugitive criminals who are in, or suspected of being in, such British possession, Her Majesty may, by the order in council applying this act

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in the case of any foreign state, or by any subsequent order, either suspend the operation, within any such British possession, of this act, or of any part thereof, so far as it relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer; or direct that such law or ordinance or any part thereof shall have effect in such British possession with or without modifications and alterations, as if it were part of this act.

GENERAL PROVISIONS.

19. Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this act, is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offense committed prior to the surrender in any part of Her Majesty's dominions, other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

20. The forms set forth in the second schedule to this act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

21. Her Majesty may, by order in council, revoke or alter, subject to the restrictions of this act, any order in council made in pursuance of this act, and all the provisions of this act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

22. This act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and the Isle of Man in the same manner as if they were part of the United Kingdom; and the royal courts of the Channel Islands are hereby respectively authorized and required to register this act.

23. Nothing in this act shall affect the lawful powers of Her Majesty or of the governor-general of India in council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this act.

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the act of the session of the nineteenth and twentieth years of the reign of her present Majesty, chapter one hundred and thirteen, intituled "An act to provide for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals;" and all the provisions of that act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: *Provided*, That nothing in this section shall apply in the case of any criminal matter of a political character.

25. For the purposes of this act every colony, dependency, and constituent part of a foreign state, and every vessel of that state shall (except where expressly mentioned as distinct in this act) be deemed to be within the jurisdiction of, and to be part of, such foreign state.

26. In this act, unless the context otherwise requires —

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession.

The term "legislature" means any person or persons who can exercise legislative authority in a British possession; and where there are local legislatures as well as a central legislature, means the central legislature only.

The term "governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India.

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this act.

The terms "conviction" and "convicted" do not include or refer to a conviction which, under foreign law, is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy.

The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in, or suspected of being in, some part of Her Majesty's dominions; and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state.

The term "secretary of state" means one of Her Majesty's principal secretaries of state.

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The term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow street.

The term "justice of the peace" includes, in Scotland, any sheriff, sheriff's substitute, or magistrate.

The term "warrant," in the case of any foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime.

REPEAL OF ACTS.

27. The acts specified in the third schedule to this act are hereby repealed as to the whole of Her Majesty's dominions; and this act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the acts so repealed) shall apply (as regards crimes committed either before or after the passing of this act) in the case of the foreign states with which those treaties are made, in the same manner as if an order in council referring to such treaties had been made in pursuance of this act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this act:

Provided, That if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered in the same manner as if this act had not passed.

SCHEDULES.

FIRST SCHEDULE.

List of crimes.

The following list of crimes is to be construed according to the law existing in England, or in a British possession, (as the case may be,) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money, and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretenses.

Crimes by bankrupts against bankruptcy law.

Fraud by bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any act for the time being in force.

Rape.

Abduction.

Child-stealing.

Burglary and house-breaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

SECOND SCHEDULE.

Form of order of secretary of state to the police magistrate.

To the chief magistrate of the metropolitan police courts, or other magistrate of the metropolitan police court, in Bow street, [or the stipendiary magistrate at ———]:

Whereas in pursuance of an arrangement with ——— ———, referred to in an order of Her Majesty in council, dated the —— day of ———, a requisition has been made to me, ——— ———, one of Her Majesty's principal secretaries of state, by ——— ———, the diplomatic representative of ———, for the surrender of ——— ———, late of ———, accused [or convicted] of the commission of the crime of ———, within the jurisdiction of ———:

Now I hereby, by this my order, under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension

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of such fugitive, provided that the conditions of the extradition act, 1870, relating to the issue of such warrant, are, in your judgment, complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's principal secretaries of state, this —— day of ——, 18—.

—— ——.

Form of warrant of apprehension by order of secretary of state.

Metropolitan police district, [or county or borough of] ——, to wit:

To all and each of the constables of the metropolitan police force, [or of the county or borough of ——]:

Whereas the right honorable —— ——, one of Her Majesty's principal secretaries of state, by order, under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of —— ——, late of ——, accused [or convicted] of the commission of the crime of ——, within the jurisdiction of ——: This is therefore to command you, in Her Majesty's name, forthwith to apprehend the said —— ——, pursuant to the extradition act, 1870, wherever he may be found in the United Kingdom, or Isle of Man, and bring him before me or some other [* magistrate sitting in this court], to show cause why he should not be surrendered, in pursuance of the said extradition act, for which this shall be your warrant.

Given under my hand and seal, at [*Bow street, one of the police courts of the metropolis,] this —— day of ——, 18—.

—— ——, *J. P.*

Form of warrant of apprehension without order of secretary of state.

Metropolitan police district, [or county or borough of ——,] to wit:

To all and each of the constables of the metropolitan police force, [or of the county or borough of ——,]:

Whereas it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district, [or the said county or borough of ——,] that —— ——, late of ——, is accused [or convicted] of the commission of the crime of ——, within the jurisdiction of ——: This is therefore to command you, in Her Majesty's name, to forthwith apprehend the said —— ——, and to bring him before me, or some other magistrate sitting at this court, [or one of Her Majesty's justices of the peace in and for the county [or borough] of ——,] to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow street, one of the police courts of the metropolis, [or —— in the county or borough aforesaid,] this —— day of ——, 18—.

—— ——, J. P.

Form of warrant for bringing prisoner before the police magistrate.

County [or borough] of ——, to wit:

To —— ——, constable of the police force of ——, and to all other peace officers in the said county [or borough] of ——:.

Whereas, —— ——, late of ——, accused [or alleged to be convicted of] the commission of the crime of ——, within the jurisdiction of ——, has been apprehended, and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [or borough] of——.

And whereas by the extradition act, 1870, he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow street, within the metropolitan police district, [or the stipendiary magistrate for ——]: This is therefore to command you, the said constable, in Her Majesty's name, forthwith to take and convey the said —— —— to the metropolitan police district, [or the said ——,] and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow street within the said district, [or before a stipendiary magistrate sitting in the said ——,] to show cause why he should not be surrendered, in pursuance of the extradition act, 1870, and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at ——, in the county [or borough] aforesaid, this —— day of ——, 18—.

—— ——, J. P.

* Alter as required.

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Form of warrant of committal.

Metropolitan police district, [or the county or borough of ——,] to wit: } To —— ——, one of the constables of the metropolitan police force, [or of the police force of the county or borough of ——,] and to the keeper of the ——.

Be it remembered that on this —— day of ——, in the year of our Lord ——, —— ——, late of ——, is brought before me, —— ——, the chief magistrate of the metropolitan police courts, [or one of the police magistrates of the metropolis,] sitting at the police court in Bow street, within the metropolitan police district, [or a stipendiary magistrate for ——,] to show cause why he should not be surrendered in pursuance of the extradition act, 1870, on the ground of his being accused [or convicted] of the commission of the crime of —— within the jurisdiction of ——, and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said act: This is therefore to command you, the said constable, in Her Majesty's name, forthwith to convey and deliver the body of the said —— —— into the custody of the said keeper of the ——at ——, and you, the said keeper, to receive the said —— —— into your custody, and him there safely keep until he is thence delivered pursuant to the provisions of the said extradition act, for which this shall be your warrant.

Given under my hand and seal at Bow street, one of the police courts of the metropolis, [or at the said ——,] this —— day of ——, 18—.

—— ——, *J. P.*

Form of warrant of secretary of state for surrender of fugitives.

To the keeper of —— and to ——:

Whereas —— ——, late of ——, accused [or convicted] of the commission of the crime of —— within the jurisdiction of ——, was delivered into the custody of you, —— ——, the keeper of ——, by warrant dated ——, pursuant to the extradition act, 1870:

Now, I do hereby, in pursuance of the said act, order you, the said keeper, to deliver the body of the said —— —— into the custody of the said ——, and I command you the said ——, to receive the said —— —— into your custody, and to convey him within the jurisdiction of the said ——; and there place him in the custody of any person or persons appointed by the said —— to receive him, for which this shall be your warrant.

Given under my hand and seal of the undersigned, one of Her Majesty's principal secretaries of state, this —— day of ——.

—— ——.

THIRD SCHEDULE.

Year and chapter.	Title.
6 and 7 Vict., c. 75	An act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.
6 and 7 Vict., c. 76	An act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
9 and 9 Vict., c. 120	An act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.
25 and 26 Vict., c. 70	An act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.
29 and 30 Vict., c. 121 ...	An act for the amendment of the law relating to treaties of extradition.

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No. 152.

Mr. Moran to Mr. Fish.

No. 420.] LEGATION OF THE UNITED STATES,
London, November 23, 1872. (Received December 9.)

SIR: I have the honor to inform you that I had a visit on the 8th instant from General J. C. Kirkham, an Englishman calling himself "Special envoy of His Majesty Yourness, Emperor of Abyssinia," who requested me to transmit a sealed letter from him to the President, which he had written in his official character. I explained to him that such a letter from the Emperor himself would be proper, but that any communication he had to make as representative of that sovereign should be addressed to you. He accordingly sent me on the 16th instant the letter which I have now the honor to enclose herewith.

I have since learned informally from Lord Granville that General Kirkham presented himself some time ago at the foreign office as special envoy from Abyssinia, but, being an Englishman, was not received in that capacity. He bore a sealed autograph letter from the Emperor to the Queen, which was accepted from him as special bearer thereof, and delivered to Her Majesty, but not before a copy had been placed in Lord Granville's hands. His lordship did not, therefore, receive General Kirkham officially; but as Her Majesty's government are disposed to cultivate friendly relations with Abyssinia he was accepted in the capacity of a bearer of a special communication to the Queen from the Emperor Yourness, with the understanding that the foreign office could hold no official relations with him. This course is not, however, intended to cast discredit on him or his mission, but is in accordance with the practice of Her Majesty's government not to receive any of her subjects as diplomatic representatives of foreign powers, The case of Sir John Bowning is in point, a full report of which will be found in Mr. Motley's No. 514, addressed to you on the 10th of November, 1870.

I understand that General Kirkham has addressed a similar letter to the one inclosed to M. de Remusat for M. Thiers, which was forwarded to Paris through the French embassy in London, and formally acknowledged.

I do not learn that General Kirkham has a letter of credence from the Emperor of Abyssinia, but believe from his reception at the French embassy that he is provided with one.

Herewith I send copies of a letter addressed to me by General Kirkham, and my reply.

I am, &c.,

BENJAMIN MORAN.

[Inclosure 1.]

General Kirkham to Mr. Fish.

LONDON, *November* 14, 1872.

SIR: I have come from Abyssinia as the special envoy of the Emperor Yourness to the Emperors of Russia, Germany, Austria, the Queen of Great Britain and Ireland, and the President of the French Republic.

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Before quitting the Abyssinian capital I had frequent conversations with His Majesty the Emperor Yourness concerning the United States. The Emperor Yourness is a keen man, but he knows more of his own cherished antiquities than he does of the institutions which have wrought out your American prosperity. He could not exactly understand a republic. For this reason I am not a bearer of an autograph letter from His Majesty to the President of the United States, yet I was authorized by the Emperor to solicit aid and sympathy from the Christian world, because I have been for four years his commander-in-chief, and I am proud to know from my travels in your country that America's voice is both potent and sincere.

In all of Abyssinia we have nearly 8,000,000 Christians. They are the prey of Mussulmans, and are sought as slaves. For many centuries the Turks and Egyptians have succeeded in seducing or coercing them into bondage, and the function of Christian Abyssinia in Africa is now considered to be the slave-mart for the Turkish Empire. Egypt, in order to further her schemes against Abyssinia, undertook a hostile expedition against the Emperor Yourness when His Majesty was absent in the Azobo-Galla country endeavoring to suppress a rebellion.

The Viceroy of Egypt has seized a great province called Bogos, and now holds it by the power of conquest. The Emperor considers this forcible and unjustifiable occupation of his territory as a crime. The Emperor Yourness is a progressive ruler. He saw by the Magdala campaign that progress was necessary for his people, and he has ever sought to establish it in Abyssinia, but he has not been encouraged. The Christian powers know nothing of his country, though Bruce and Salt wrote of its vast resources a century ago. My mission is therefore threefold:

First. To prevent Egypt from an aggressive movement against Abyssinia.

Second. To give Abyssinia a port on the Red Sea, in order that she may communicate with the outside world.

Third. The establishment of a commercial treaty.

While the United States are nobly looking for the development of heathen Japan in the West, it does seem to me that they may cast a sympathetic glance at Christian Abyssinia in the East. America has lately given freedom to 4,000,000 of slaves; can she not also give her moral support to 8,000,000 of Christians honestly struggling out of African bondage and barbarism? If the Government of the United States can give to Abyssinia moral if not material support, we promise them we can extinguish one of the great fountains of the African slave-trade in the Walla-Galla country, from which land is recruited 90,000 slaves a year.

Abyssinia is the true highway to Central Africa, and to the solution of all natural and geographical problems now surrounding that unknown region. If, when the Abyssinian rulers applied to the Portuguese kings, those monarchs had listened to the entreaties of Abyssinia, I believe Africa would not have required Dr. Livingstones or Sir Samuel Bakers to-day. The whole continent would have been well known and in a fair state of civilization. I address you, therefore, as Secretary of State, knowing that by your distinguished qualities as a statesman you can appreciate the aspirations as well as the miseries of a people who, if they are not great, are yet the pioneers of Christianity in Africa.

I respectfully ask that these and any statements I may address to you may be laid before the Congress of the United States, and that an acknowledgment of this dispatch may be sent to Henry Samuel King, esq., 65 Cornhill, London.

Any further and special information will be cheerfully forwarded to the Government of the United States.

I remain, sir, your humble and obedient servant,

J. C. KIRKHAM.

Hon. HAMILTON FISH,
Secretary of State, Washington.

[Inclosure 2.]

Mr. Kirkham to Mr. Moran.

LONDON, *November* 6, 1872.

SIR: Will you be kind enough to inform me when and where I can deliver to you dispatches for the President of the United States, coming from me, a special envoy of His Majesty Johannez, Emperor of Abyssinia?

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I have the honor to remain, sir, with sentiments of my most distinguished consideration,

Your very obedient servant,

J. C. KIRKHAM,
39 *Guilford Street.*

Hon. BENJAMIN MORAN,
Chargé d'Affaires of the United States.

[Inclosure 3.]

Mr. Moran to Mr. Kirkham.

LEGATION OF THE UNITED STATES,
5 *Westminster Chambers, November* 7, 1872.

SIR: I have had the honor to receive your letter of yesterday's date asking to be informed when and where you can deliver to me dispatches for the President of the United States, coming from you as the special envoy of His Majesty Johannez, Emperor of Abyssinia, and I beg to say that I shall be happy to receive you here at 12 o'clock tomorrow, the 8th instant.

I am, sir, with great respect, your very obedient servant,

BENJAMIN MORAN.

J. C. KIRKHAM, *&c., &c., &c.,*
39 *Guilford Street, London.*

No. 153.

General Schenck to Mr. Fish.

No. 335.] LEGATION OF THE UNITED STATES,
London, January 23, 1873. (Received February 10.)

SIR: With reference to my No. 329 I have now the honor to inclose herewith copies of a note which Lord Granville addressed to me on the 17th instant, and of my reply, together with copies of a circular from the board of trade, and a memorandum which has been drawn up at that department, in regard to the laws in force in this country respecting the inspection of the machinery, hull, and equipments of steamships.

I am, &c.,

ROBT. C. SCHENCK.

[Inclosure No. 1.]

Earl Granville to General Schenck.

FOREIGN OFFICE, *January* 17, 1873.

SIR: I referred to the board of trade the copy of the letter to Mr. Fish from the Treasury Department at Washington, dated the 8th of August last, which you were good enough to communicate to me on the 2d of September, 1872, requesting information in regard to the laws in force in this country for the inspection of steamships, and I now have the honor to transmit to you, for the information of the United States

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Government, copies of a circular issued by the board of trade to their surveyors with regard to the machinery, hull, and equipments of steam-vessels, together with a copy of a memorandum which has been drawn up at that department upon the subject.

I have, &c.,

For Earl GRANVILLE.
(S'd) TENTERDEN.

[M 2482, 1872.]

Circular No. 591, *board of trade, December*, 1872.

INSTRUCTIONS TO SURVEYORS OF STEAMSHIPS, MACHINERY, HULL, AND EQUIPMENTS.

This circular does not contain any new order or any fresh rule; it is merely an arrangement, in a condensed form, of the substance of various orders and circulars issued by the board of trade from time to time, and of rules acted on by the surveyors.

1. The machinery and boilers must be sufficient for the service intended and in good condition.

2. All inlets and outlets in the bottom or side of a vessel, near to, at, or below the deep load water-line must have cocks or valves fitted between the pipes and the ship's side or bottom; such cocks or valves must be attached to the skin of the ship, and be so arranged that they can be easily and expeditiously opened or closed at any time. The cocks, valves, and the whole length of the pipes should be accessible at any time.

3. Stop-valves must, in every case, be fitted between the boilers and the steam-pipes, and the whole of the steam-pipes ought to be accessible at any time.

4. Each boiler must be fitted with a safety-valve so constructed as to be out of the control of the engineer when steam is up; but lifting or easing gear must be fitted.

5. The parliamentary safety-valve is, in all cases, to be of at least the same area as the ordinary safety-valve on the same boiler, and the pressure on the ordinary safety-valve is not to be less than that on the parliamentary safety-valve, and it is extremely desirable that there should be an ordinary safety-valve in addition to the parliamentary valve. The safety-valve should have at least an area of one-half square inch per every square foot of fire-grate surface, and care should be taken that the valve has sufficient lift, and that the waste-steam pipe is sufficiently large; and in the case of lever-valves, if the lever is not bushed with brass, the pins must be of brass; iron and iron working together must not be passed.

6. The pressure to which the boiler may be worked must be fixed by the surveyor in accordance with the strength of the boiler. In flat surfaces the pressure allowed should not exceed 5,000 pounds to each effective square inch of sectional area of stay.

7. No boiler or steam-chamber is to be so constructed, fitted, or arranged as that the escape of steam from it through the safety-valve required by the act of Parliament can be wholly or partially intercepted by the action of any other valve.

8. Each boiler must be fitted with water-gauge and steam-gauges, &c.; that is to say, each boiler must be fitted with all fittings as complete as if there was only one boiler.

9. Superheaters that cannot be easily entered must have a sufficient number of doors fitted, so that a thorough inspection of all parts of the superheater can be made through the openings.

10. Donkey-boilers that are in any way attached to or connected with the main boilers, or with the machinery used for propelling the vessel, must be surveyed and fitted the same as the main boilers, and have a water and steam-gauge, and all other fittings complete, including a parliamentary safety-valve.

11. The surveyor should see boilers tested, by hydraulic pressure, up to at least double the intended working pressure, previous to the boilers being placed in the vessel, to test the workmanship, &c., but the working pressure is to be determined by the stay power, thickness of plates, and strength of riveting, &c., and not by the hydraulic test. When the boilers are in the vessel the surveyor may, at any time he thinks it necessary, before he gives a declaration, have them tested by hydraulic pressure to satisfy himself as to any doubtful part, or of places not easy of access, care being taken in the case of old boilers not to overstrain them. Surveyors should also pay particular attention to the examination and testing of steam-pipes.

12. The hull of the vessel must be properly constructed, sufficient for the service intended, and in good condition.

13. There must be a sufficient number of scuppers and relieving-ports.

14. The coamings must be sufficiently high and strong.

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15. The skylights must be strong and securely fitted, and, where necessary, shutters must be fitted for bad weather.

16. The bunker-lids must be so fitted that they can be easily and securely fastened.

17. The bulwarks must be of sufficient strength and height for the service intended.

18. All ports must be properly fitted and secured, and there should be some spare blanks or dead-lights in case any of the glasses get broken.

19. There must be rudder-pendants strongly secured to the rudder at the after part, so that the vessel can be steered in case of accident to the tiller or the rudder-head.

20. There must be in each compartment a hand-pump of sufficient size which can be worked from the upper deck, with a rose or perforated box of sufficient size for each pump. There ought to be fitted at the bottom of each bulk-head a valve or cock, which can be opened and shut from the upper deck, and there ought to be means for ascertaining the depth of water in each compartment.

21. In all sea-going screw-vessels there must be a strong water-tight deck over the cast-iron tube aft, so as to make a tank around the tube, and a properly fitted man-hole at the top or fore end. Collision bulk-heads ought to be fitted in sea-going vessels, and if they are not fitted the surveyor should note the fact.

22. The masts, sails, and rigging must be good and sufficient for the vessel.

23. The anchors must be of sufficient weight and number for the vessel, and the cables of sufficient strength and length. The spare anchors ought not to be stowed below, but kept ready in case they should be required.

24. The vessel must be supplied with a sufficient number of good hawsers.

25. A suitable gun or mortar must be provided with not less than twelve charges of powder inclosed in a proper magazine, and a powder flask or horn for priming; also twelve blue lights and twelve rockets with twelve sticks, but six of Holm's patent storm and danger signal-lights may be substituted for six blue lights or port-fires; and there must be provided cases for the rockets, blue lights, &c.

26. A fire-hose must be provided with a goose-neck and conductor, and so fitted that the hose can be connected either with the main or the donkey engine, and used with either. It must be of sufficient length to reach any part of the vessel, and also of sufficient strength to stand the pressure when the engines are working at full speed and with the conductor connected.

27. The side lights, mast-head, and anchor lights must be according to the regulations, and ought *not to be less* than as follows:

Side lights.—Port and starboard with lenses 8 inches across the chord of the arc and 5 inches in height and not less than one third of a circle, and the frames 11 inches in height, exclusive of the chimney, and 9 inches back and side, and to show over an arc of 10 points at a distance of two miles. The screens for the side lights should be at least 3 feet from the front of the light and not fixed abaft the greatest beam of the vessel, and should not be secured to the rigging. The mast-head light to show 20 points at a distance of five miles. A fork should be fixed to the mast, and the lantern should be fitted so that the guides or eyes on the sides of it shall slip on to extended prongs of the fork. Anchor-light 8 inches diameter. The wicks of the lamps should be of from 1¼ inches to 2 inches, except when paraffine is used, then the wicks should not be less than 1 inch. When paraffine is used the lamps ought to be larger than the sizes given above.

28. Leads and lines must be provided and properly marked.

29. An efficient steam-whistle at least eight feet above the deck and situated forward of the funnel or, if there be more than one funnel, forward of the foremost funnel; also a bell and fog-horn should be provided.

30. Life-buoys with lines attached and fitted with a toggle and beckets, or other method by which they can be quickly thrown overboard, if required, and they must not be lashed or seized to the rail or any other part of the vessel, but must be kept so as to be ready at a moment's notice in case of accident. The life-buoys must be made of cork, and not merely a canvas-ring stuffed with rushes, cork-shavings, or cuttings.

31. The accommodation for the passengers must be sufficiently lighted and ventilated.

32. There must be a sufficient number of properly adjusted compasses and deviation cards for the same.

33. The boats must be efficient and at least equal in cubic contents to the following table, fitted with a complete set of oars and some spare ones, two boat-hooks, two plugs, a proper and serviceable bailer, a set and a half of thole-pins or crutches. All of the plugs, bailers, and thole-pins must be made fast with lanyards and kept in the boats ready for use. Life-lines should be fitted to the davits long enough to reach the water when the vessel is light, and allowance made for the extreme roll of the ship. Lanyards should be fitted to the rudders of all the boats. The buoy and apparatus must go along the sides and into the ends of the life-boats and must be sufficient and properly secured. All boats should be hung in davits and kept ready for service at any moment.

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Table of the dimensions of boats required to be carried by passenger-steamers. The measurement is taken outside for length and breadth, and inside for depth, measuring from top of gunwale.

Number of tons register.	EITHER—					OR—				
	No. of boats.*	Dimensions. Length.	Breadth.	Depth.	Cubic contents.	No. of boats.†	Dimensions. Length.	Breadth.	Depth.	Cubic contents.
		Ft. in.	*Ft. in.*	*Ft. in.*	*Ft. in.*		*Ft. in.*	*Ft. in.*	*Ft. in.*	*Ft. in.*
1,000 and upwards.	1	18 0	5 6	2 3	222 9	1	18 0	5 6	2 3	222 9
	2	24 0	5 6	2 6	660 0	2	24 0	5 6	2 6	660 0
	1	27 0	8 6	3 8	841 6	2	22 0	5 6	2 6	605 0
					1,724 3					1,487 9
	2‡	28 0	8 6	3 6	1,666 0	2‡	28 0	8 6	3 6	1,666 0
			Boats of					Boats of		
	6				3,390 3	7				3,153 9
800 to 1,000	1	18 0	5 6	2 3	222 9	1	18 0	5 6	2 3	222 9
	2	26 0	6 6	2 8	901 4	2	26 0	6 6	2 8	901 4
	1‡	26 0	8 0	3 8	762 8	2	22 0	5 6	2 6	605 0
			Boats of					Boats of		
	4				1,886 9	5				1,729 9
500 to 800	1	18 0	5 6	2 3	222 9	1	18 0	5 6	2 3	222 9
	2	24 0	5 6	2 6	660 0	2	24 0	5 6	2 6	660 0
	1‡	26 0	8 0	3 8	762 8	2	22 0	5 6	2 6	605 0
			Boats of					Boats of		
	4				1,645 5	5				1,487 9
360 to 500	1	16 0	5 6	2 3	198 0	1	16 0	5 6	2 3	198 0
	2	24 0	5 6	2 6	660 0	2	24 0	5 6	2 6	660 0
	1‡	25 0	7 0	3 6	612 6	2	22 0	5 6	2 6	605 0
			Boats of					Boats of		
	4				1,470 6	5				1,463 0
240 to 360	1	16 0	5 6	2 3	198 0	1	16 0	5 6	2 3	198 0
	1	22 0	5 6	2 5	292 5	1	22 0	5 6	2 5	292 5
	1‡	22 0	6 6	3 3	464 9	2	22 0	5 6	2 6	605 0
			Boats of					Boats of		
	3				955 2	4				1,095 5
120 to 240	1	14 0	5 0	2 2	151 8	1	14 0	5 0	2 2	151 8
	1‡	20 0	6 0	3 0	360 0	2	22 0	5 6	2 6	605 0
			Boats of					Boats of		
	2				511 8	3				756 8
60 to 120	1	14 0	5 0	2 2	151 8	1	14 0	5 0	2 2	151 8
	1‡	16 0	5 6	2 9	242 0	2	18 0	5 6	2 4	462 0
			Boats of							
	2				393 8	3				613 8
Under 60	1‡	14 0	5 0	2 2	151 8					

* If the number of boats in this column are carried, one of them must be a launch of at least the capacity named.

† If the number of boats in this column are carried, the cubic contents (equal in their aggregate to the cubic contents required) may be spread in any way over the whole number of boats. The life-boat or life-boats must be the largest boats.

‡ Life-boats.

34. Builders, owners, and others would save themselves much trouble if they would, when in doubt, refer at an early moment to the Board of Trade; by neglecting to do so much valuable time or money may be unnecessarily expended. Surveyors should point out, as far as possible, when inspecting a vessel which is intended for the passenger trade, any defects or alterations they may deem necessary, so as to prevent delay to owners afterwards.

35. Delays and inconvenience may to a great extent be prevented if notice is given when a vessel which requires a certificate is undergoing repairs, or is in dry-dock for any other purpose; as this notice might obviate the occasional necessity of re-docking a vessel at an inconvenient time and at great expense, for the surveyors to examine the outside of the hull. In order to prevent delays at least three clear days' notice in writing should be given when a survey is required. A form of application can be obtained at any mercantile marine office. The surveyors will attend to surveys

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in the order in which the applications are received. The application for survey should contain an explicit statement of the place where the ship will be lying for survey or inspection at the time named.

The application should *not* be addressed to a surveyor by name, but to the surveyor or surveyors collectively for the district. It should state the exact place where the vessel will be lying, and the time when she will be ready for survey or inspection.

36. If, when a surveyor is requested to survey a vessel, the owners are careful to give orders that things shall be in readiness as pointed out below, delay will be prevented.

(1.) Certificate of register.
(2.) Master's certificate.
(3.) Mate's certificates.
(4.) Engineer's certificates.
(5.) Last passenger certificate.
(6.) Compass-adjustment certificate or certificate signed by master and mate and attested by owners.

} On board at the time of survey.

(7.) Boats uncovered and ready to lower with all gear and spare gear in.
(8.) Pumps rigged in their places.
(9.) Spare tiller shipped in its place.
(10.) Side lamps, mast-head light, and anchor-light on deck, ready to be put into their places if necessary.
(11.) Life-buoys in readiness with lines attached.
(12.) Leads and lines on deck.
(13.) Cartridges, blue lights, rockets, and signal-gun or mortar ready for inspection.
(14.) Fire-hose connected and coupled and stretched along the deck; the conductor connected.
(15.) Decks, cabins, steerages, and all other passenger spaces clean and clear and in a fit state for measurement.
(16.) The holds empty, the limber-boards up, bilges clean, cocks and valves at the bottom of the bulk-heads exposed for examination; a safe and proper ladder for going up and down the holds.
(17.) Boilers, including the donkey-boiler, if connected with the main boiler or engine, empty, clean, and quite cool, and the man and mud-hole doors off the boilers and superheaters.
(18.) Furnace-bars out of each boiler and the bridges down.
(19.) Furnaces, flues, smoke-boxes, and tube-plates, scraped and swept clean.
(20.) The safety-valves and weights out of each boiler, and a means on board for weighing them. A correct spring-balance should be provided when the valves are fitted with levers.
(21.) All pipes and cocks at the ship's side or bottom accessible to the surveyor.
(22.) Shaft-tunnel clean and clear for the proper examination of the plummer-blocks, bearings, and stuffing-box.
(23.) Chain cables on deck and properly ranged at least once a year, so that the length can be accurately obtained as well as the condition of the cable. The pins and bolts should be knocked out and put in again before finishing the survey.
(24.) When vessels are in dry dock or on a slip, which they must be at least once in twelve months, the examination will be made by the surveyor after the bottom is cleaned but *before* it is painted or coated.

THOMAS GREY,
Assistant Secretary.

[Inclosure No. 2.]

No. 11726.] LONDON, *September* 13, 1872.

The following is submitted for approval in reply to queries from United States Government:

1. The surveyors of the board of trade do not take notice of iron to be worked into boilers, but only of boilers after they are constructed.

The brand is the surveyor's guide as to the qualities of the iron, and the average strength of such brand as given in the many tables of reliable experiments, especially those of Fairbairn and of Kirkaldy, forms the basis of the surveyor's calculations.

The quality of homogeneity being most essential in those plates that are exposed to repeated heating and cooling, it is required that the plates of the furnaces, the flame-boxes, and the back tube plates shall be of Yorkshire iron, such as "Bowling Lowmoor," or "Farmley," and if each of such plates bears the stamp of the maker, this is always deemed sufficient evidence of their quality, unless on inspection they show blisters.

While the law does not define or demand any testing of materials of boiler con-

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struction, this department sanctions the attendance of their surveyors to witness such experiments as the builder may be wishful to bring under their notice.

In particular cases the manufacturer may claim to be using a material of exceptional excellence, and requests that a proportionally higher pressure may be granted. In addition to the usual bending tests and the test of tensile strength, and surveyors are directed in such cases to note the behavior of the material when under steam, the amount of yielding within, and the steam at the limit of elasticity, and the degree of ductility of the material, as shown by the amount of stretch before breaking.

2. The unit of maximum pressure allowed as a working power in Britain, is "one-sixth of the bursting pressure of the boiler." This is not the same as one-sixth of the tensile strength of the material. Aiming at this proportion, surveyors are instructed to use a factor of safety of 8 for ordinary workmanship, and that in cases where the workmanship is exceptionally excellent and all rivet-holes are drilled, 7 may be taken as the factor of safety, when calculating from the strength of the unworked plates. This refers to the strength of shell only.

Stays, as being liable to be subjected to unequal distribution of the strain of pressure, and to rapid decay, are at the maximum working pressure to bear not more than 5,000 pounds per square inch of section, unless where special means are introduced to insure that each stay shall only have its own proportionate share of the load, and then the stress must not exceed 6,000 pounds per square inch of stay sections.

3. The board of trade directs that their surveyors will take note of hydraulic tests as evidence of workmanship in new boilers, and as a means of discovering weak places in inaccessible parts of worn boilers.

The practice is to test up to double the pressure that has been fixed by calculation and inspection to be the proper working pressure. The surveyor is directed in every case to determine the amount of pressure to be given by the strength of the boiler as ascertained by measurement and inspection, and not in any case to give a pressure merely because the boiler has stood a certain hydraulic test.

4. There is no classification of "high" and "low" pressure boilers. They differ only in degree.

Practically, therefore, a double-rivet boiler is fifteen per cent. stronger per square inch of section than single-riveted boilers. The double-riveted boiler is supposed to be one made of thick plates, the single-riveted, of thin plates.

This subject is at present receiving much attention, and is the object of new experiments by Sir William Fairbairn and others.

5. There is one safety-valve on each boiler out of the control of the engineer except for easing it. Where there is only one safety-valve on a boiler, that valve must be loaded direct, and have no working surfaces under pressure only guides, or if not loaded direct the centers must be of knife-edge construction throughout. Where more than one valve is applied to each boiler, the valves may be lever-valves. In no safety-valve is it allowed to have two iron surfaces working together.

The safety-valve area is ¼-inch opening to every foot of fire-grate. It may be in one or two valves.

6. Recording-gauges are not prescribed.

7. Solid cork. Form or buoyancy not specified, but to be to the satisfaction of the surveyor.

[Inclosure No. 4.]

General Schenck to Earl Granville.

LEGATION OF THE UNITED STATES,
London, January 23, 1873.

MY LORD: I have had the honor to receive your lordship's note of the 17th instant, touching the letter to Mr. Fish from the Treasury Department of the United States of the 8th of August last, which I communicated to you on the 2d of September, 1872, requesting certain information for the use of my Government in regard to the laws in force in this country for the inspection of steamships; and I have much pleasure in expressing to you my thanks for the copies of a circular issued by the board of trade to their surveyors with regard to the machinery, hull, and equipments of steam-vessels, and the copy of a memorandum which has been drawn up at that department upon the subject, which you have been so good as to forward to me in your above-mentioned note.

I am, &c., &c., my lord, &c., &c.,

ROBERT C. SCHENCK.

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No. 154.

General Schenck to Mr. Fish.

No. 352.] LEGATION OF THE UNITED STATES,
London, March 5, 1873. (Received March 24, 1873.)

SIR: There has been a "Burmese embassy" here, consisting of a chief envoy and two or three associates and secretaries. They have now gone homeward after having proceeded first to visit some of the other European courts. A good deal of parade was made, and special attention extended to them while they were in England, apparently with a view to making on their minds an impression as to the great importance and value of good relations between their King and Her Majesty's government. I think, however, they were intelligent enough to observe that, although coming accredited to this court in a diplomatic character, their presentation to Her Majesty, and the delivery of their credentials, were under the auspices, not of the minister of foreign affairs, but accompanied by the secretary of state for India. There seemed a significancy in this fact. It was as if the government here were only willing to consider questions or relations with Burmah, as belonging to the policy which controls in regard to the eastern possessions of Great Britain, and not to the treatment which is to be given to an independent power.

I refer to this embassy now only that I may inform you that I did not omit to avail myself of an opportunity which was presented for creating or increasing kindly and respectful feelings in its representatives toward our country and Government.

The Paden Woondonk, one of the ministers accompanying and attached to the embassy, was in London in a semi-official character last year, preparing the way for opening diplomatic relations with the British government.

I made his acquaintance at that time. I found him intelligent and speaking English well. He had learned the language from American missionaries. He told me much of their helpful kindness to his people, beginning with the residence among them of Mr. and Mrs. Judson, many years ago. His sentiment of admiration for the United States was strong. When he left England on that occasion, I took some pains, at his request, to prepare and afterward forwarded to him forms of a letter of credence and other papers used in diplomacy.

They were documents, he said, with which they had as yet little acquaintance in his country. A few days ago, and on the eve of the departure of the embassy, I received from the Paden Woondonk a letter referring to and acknowledging that service rendered them, and I have thought the communication, though not strictly official, of sufficient interest to be sent to you, and to be preserved as record evidence of some promise of future good understanding with the government of a distant but interesting country.

I transmit herewith, therefore, a copy of the letter of my friend from Burmah.

I am, &c.,

ROBERT C. SCHENCK.

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[Inclosure.]

Paden Woondonk to General Schenck.

BURMESE EMBASSY, THE GROSVENOR HOTEL,
VICTORIA STATION, BELGRAVIA,
London, S. W., February 10, 1873.

DEAR GENERAL SCHENCK: As the departure of this embassy for Burmah will take place in a few days, and many pressing matters so occupy my time that I am unable to take farewell as I should have wished to do in person of your excellency, I hasten to do so by letter, and to express to you the sincere pleasure I have experienced in again renewing the acquaintance so happily formed with your excellency last year.

The documents you so kindly forwarded to me then through Mr. Shackleton Hallet have proved of the greatest service to me and to my government. On their excellent model have been drawn up the documents accrediting this embassy to the court of Her Britannic Majesty. I shall always be grateful to your excellency for that mark of your consideration; and my government will ever endeavor to show, by its kindly, considerate, and favorable treatment of such of the citizens of the United States as may visit Burmah, the desire that animates it to reciprocate the good offices shown to it by the minister of that great, illustrious, and powerful republic.

I trust that your excellency is enjoying good health, and that the members of your family, to whom, when last in London, I had the honor of being introduced, are also well. I beg you to remember me kindly to them and to your good secretary, Mr. Moran, and to accept yourself the assurance of my esteem and friendship, and also of the high consideration and esteem of my government.

I am, dear General Schenck, your excellency's most obliged and obedient servant,
MAHA MEULHA KYODEN PADEN WOONDONK,
Minister of State, Second Grade.

General SCHENCK,
Envoy Extraordinary and Minister Plenipotentiary
United States of America, 58 Great Cumberland Place.

No. 155.

General Schenck to Mr. Fish.

No. 358.] LEGATION OF THE UNITED STATES,
London, March 22, 1873. (Received April 4.)

SIR: The "ministerial crisis" through which the government here has gone is over. For a week there was excitement; Mr. Gladstone and his colleagues went out and came in again; and all is now pretty much as if nothing had happened.

I have not written to you of this political movement for two reasons. In the first place, in these days the telegraph anticipates quite fully all such news sent by the slower communication of the mails; and secondly, there was nothing in the matter in any special way affecting the interests of the United States.

The Irish university bill has proved an abortive measure, not likely to be remembered long, except in its effect upon persons, even by those who advocated or supported it.

But last night there was a long discussion in the House of Commons which had for its subject that which does concern us—the interpretation to be put on the three rules enunciated in the treaty of Washington.

Mr. Hardy, who is a prominent member of the opposition, sitting for the University of Oxford, brought on a motion, of which he gave notice some time ago, for an address to the Crown, praying that Her Majesty in communicating these rules to foreign powers will declare to them her dissent from the principles set forth by the Geneva tribunals as the basis of their award.

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I give you herewith, in form to be preserved, a full report from the London Times of this morning of Mr. Hardy's speech in support of his motion, and of the debate which ensued. To that report I refer you.

It is not necessary to make, even if there were time to prepare it, as there is not, for the mail of to-day, a synopsis of the debate. The conclusion, as expressed by Mr. Gladstone on the part of the government at the close of the discussion, is what is most important to be noted; and it was upon this indication of the view and purpose of the Government that the motion for an address to the Crown was withdrawn.

The prime minister pledges himself that care shall be taken, as far as Great Britain is concerned, that in communicating the rules to the maritime powers, what he calls "*the dicta* of the arbitrators—their recitals—the *rationes decidendi*," shall not enter into the question.

But you will observe that Mr. Gladstone negatives the idea that in making such communication to other governments there is to be any "substantive interpretation" placed on the rules, or a "comment to be framed on the text," and he assigns for reason that any such comment or interpretation would necessarily become of equal value with the rules themselves, and ought therefore to constitute a portion of them; so that we should be traveling back to the point from which we set out, and would be aiming at an entire reconstruction of those rules.

I do not know whether the premier intended to be so understood, but it would seem to me that he rather commits himself to the position that the rules ought to be submitted by our two governments to the other maritime powers for their acceptance, pure and simple, or without any construction or interpretation of the sense in any respect in which they are to be taken. I send also the leading article of the Times of this morning on this debate.

I have, &c.,

ROBERT C. SCHENCK.

[The Times, Saturday, March 22, 1873.]

PARLIAMENTARY INTELLIGENCE.

HOUSE OF COMMONS, *Friday, March* 21.

The Speaker took the chair at 5 minutes to 4 o'clock.

International law.—The new rules.

On the motion for going into committee of supply,

Mr. HARDY, in bringing on the motion of which he some time ago gave notice, trusted it would not be supposed that he was doing so in any party interest, or with any other object than the interest of the nation at large. (Hear, hear.) It seemed to him that this was a question on which every one might meet on common ground; and, looking at the terms of the motion, he thought it could not be charged with doing more than setting fairly before the country what, in his opinion, ought to be done on a subject eminently deserving the attention of Parliament. Every one knew how difficult and complicated the relations of belligerents and neutrals were; the belligerent generally considering himself ill-treated by the neutral, while the neutral thought he was ill-treated by the belligerent. During the civil war in America, owing to the intimate relations existing between the two countries, both North and South desired to obtain from us what was called a "benevolent neutrality," in place of the impartial neutrality which Great Britain attempted to uphold. He thought no one could impute to Lord Russell any other desire than to act fairly between the two combatants. (Hear, hear.) The Northern States were of opinion that they were subjected to an unlawful rebellion; but Lord Russell felt from the time of the blockade of the southern ports that he had to deal with two belligerent powers; that it was impossible to treat one differently

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from the other, and thenceforth his sole object was to give neither reason to complain of any breach of neutrality on our part. Nor if the law had remained as it was, could any breach of international law have been justly alleged against us. The object of the treaty was to secure an amicable settlement of all causes of difference between the two countries, and it was most unsatisfactory to find that all the questions in dispute had not been referred to the arbitrators. How, for instance, could a final settlement be expected when the raid into Canada was excepted? (Hear, hear.) He trusted no one would interpret his criticism of the award as conveying any imputation upon the arbitrators, either as regards their fairness or judicial qualities. He desired to deal with the award as a suitor appealing from the most able judge in the world to a higher tribunal, in order to have an important point settled finally, and placed beyond dispute. It was only reasonable that the great tribunal of this nation should have the opportunity of investigating the principles laid down by the arbitrators, with a view to determine how far the nation should in future be bound by them. Early in the course of the negotiations, Earl Granville had remarked upon the advantage of determining upon a code of international law on the subject of shipping, which might not only be a guide to Great Britain and the United States in future, but might be recommended by them to all the maritime states of the world. Sir Roundell Palmer had dwelt much upon this point in 1871, and his right honorable friend (Sir S. Northcote) had stated the same object when at Washington. The three rules had always been regarded on the part of Great Britain simply as an agreement between the two countries, and not as international law, although they might become international law, if on being accepted by the two states they were afterward indorsed by all the maritime nations of the world. It was most important that belligerents should be allowed by any code which might be agreed on to conduct their warfare without being injured by the conduct of neutrals; but if he had to choose between those who disturbed the peace of the world and those who were solicitous for peace—those who by commerce hoped to bring about the union of the whole world—he would prefer to secure the neutral from oppression by laying down such rules as would do perfect justice between all nations, whether they were powerful or weak. If the rules were in future to be what the British government by the arguments of counsel and by the *dicta* of members of the government in this house had stated they were to be, he would not have made them the subject of a motion, but the rules had been otherwise interpreted. Earl Granville had stated that, if they were not entirely covered by the old foreign-enlistment act of 1819, they were more than covered by the new enlistment act of 1870. Of course, if the rules went no further than an act of Parliament agreed on by both houses, Parliament would have nothing more to say on the subject; but was this so? It was, perhaps, necessary to remind the house of the distinction between municipal and international law. Our foreign-enlistment act was simply a piece of municipal law agreed on for the benefit of this country in order that the state might control individuals within the country, and keep them from committing certain acts which were considered as detrimental to the interests of this nation. As it was not international law, no foreign state, no prince or potentate, however great, had any right to tell us to enforce that law. A foreign state might request us to do so, and we might comply with the request or not, as we thought just; but whatever was done, it was incumbent upon us to act with strict neutrality; we were bound to be careful not to put our municipal law in force in favor of one state as against another, or refrain from putting it in force in the interest of one state as against another. Nothing more was required of us by international law. It might happen that we had incorporated parts of international law in our municipal law, and that a breach of one was a breach of the other. In such a case a foreign state might call upon us to put the law in force; and if the state were guilty of a willful breach of international law, then a *casus belli* would arise between that state and the one injuriously affected. If the three rules went no further than this he would not have moved in the matter, but an interpretation of so extraordinary a character had been put upon them that it had become necessary for the house to pronounce upon them. (Hear, hear.) It was evident from the award that the arbitrators contemplated laying down general principles for the settlement of international disputes. It might be true, as the chancellor of the exchequer had said, that we were not to be bound by the reasons given by the arbitrators nor by the principles they laid down; but we had allowed ourselves to be tried on the basis of the rules, had been judged in accordance with them, and were about to pay £3,200,000 in consequence. It was impossible, therefore, to go to foreign countries on the subject of international obligations without being confronted by the question whether we wished these rules to bear the interpretation put upon them by the arbitrators, or whether we wished them to be limited in accordance with the argument addressed to the arbitrators in our behalf. The award seemed to be accepted as far as regards our relations with the United States in the past. Was it to be accepted as a guide for the future? If it remained without protest on our part, who were the sufferers, there would be no protest by the gainers; and if any controversy arose in the future of a similar kind we should suffer again, because it was absolutely impossible to fulfill the

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obligations imposed upon us by the interpretation put upon the rules by the award. We had taken great pains to put ourselves in a position to fulfill, far beyond the requirements of international law, our duties as neutrals. We had passed an act of the most extraordinary stringency—the foreign-enlistment act of 1870—which, in one instance at least, reversed all the forms of proof. That act threw on a man charged with building and equipping a ship for a belligerent the *onus* of proving that he was not guilty. That was a very long step to take, and it showed how determined this country was ully and fairly to discharge the duties of neutrality. But the United States had no such act; they remained with what had been described as the much weaker act of 1819, under which it would be simply impossible to carry out those rules. If, therefore, we were to come into collision with the United States on this point, the Government of that country was not in such a position that it could possibly carry out the rules, because their municipal law would not enable them to do so. The broad inference from the award was that the arbitrators had laid down a principle which seemed absolutely wrong. They said that the moment there was a reasonable ground for suspecting the building and equipping of a vessel for belligerent purposes, whether the suspicion was founded on legal evidence or not, the sum of our obligations began to accumulate, and unless we succeeded in preventing the vessel from fulfilling the intent for which she was prepared we were guilty. (Hear.) There was no escape from that conclusion. That principle laid it down that we were to be insurers, (hear)—that we were to insure a belligerent that no subject of this country, no matter in what portion of this great empire he dwelt, whether here at home or at the extreme distance of our remote colonies, should do this thing. Was not that an intolerable burden—a burden which no country could bear? (Hear, hear.) He was not exaggerating; he felt that he was only describing the true state of the case, because it was on the interpretation of the question of "due diligence" that all this award seemed to turn. He came now to the rules of the award, and it might be convenient to take them in the order which the arbitrators themselves had adopted. First of all, the arbitrators laid down that "due diligence" ought to be exercised by neutral governments, not to the best of their ability, but in exact proportion to the risks to which either of the belligerents might be exposed from a failure to fulfill their neutral obligations. What was meant by that? That you were not to measure the fidelity with which you carried out your obligations as neutrals by your duty, but by the effect on the belligerent. (Hear, hear.) Now, that seemed to him to reverse all the rules of justice. (Hear, hear.) We had a duty to perform, but the very principle of duty was that you were not to look to the results, but to do what was right, fairly, freely, openly, and candidly, before the world, let the consequences be what they might. (Hear, hear.) Now, it made no difference whatever that there was in the case this peculiar circumstance that the entire confederate coast was blockaded, though that fact had from the beginning very much complicated matters in the eyes of the United States. But what was the next thing the arbitrators said? That the facts out of which the controversy arose were of a nature to call for the exercise on the part of Her Britannic Majesty's government of all possible solicitude for the observance of neutrality. We were called upon to exercise all possible solicitnde—that is, to do everything not impossible. But there were a great many things no state could do. No state could possibly control the acts of every inferior servant. (Hear, hear.) It could only do its best. The state could not prevent all offenses against itself, as everybody knew. All it could do was to make certain acts criminal, but the criminals might possibly escape, and it would be rather hard to say that this country should be held responsible because it failed to detect persons in the offenses which they committed. He came now to one of the most important points in the whole of this case, and that was the new doctrine with respect to commissioned ships. He had here a speech made in the house by Sir Roundell Palmer in 1871 upon a discussion raised by his right honorable friend the member for North Staffordshire, (Sir C. Adderley.) That speech had been listened to by the whole house with the greatest possible attention, and in quoting from it a passage as to the bearing of international law on commissioned ships no one would question its propriety. Sir Roundell Palmer said:

"When any ship had once been commissioned as a public ship of war by a belligerent power over whom we had no jurisdiction, no proceedings or inquiry having previously been held within our jurisdiction as to that ship, we did not consider ourselves bound or entitled to refuse to allow her, like other ships bearing a similar commission, and under the same restrictions, to enter any of our ports."

Now, it was quite clear that the United States had always acted on that principle. In fact, the question was raised there, and the United States, through their Attorney-General, refused to interfere, on the ground that they would not have it said that they would do so discourteous an act to any power as to seize on its commissioned ship as if they had jurisdiction over it. A commissioned ship was always considered ex-territorial as regarded the country into which it had entered, and as part of the territory of the country from which it had come. And although the ship might have been commissioned deceitfully and clandestinely, yet when it arrived at one of our ports

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with a commission it must be treated as belonging to one of the belligerent powers, and if we seized upon such a commissioned ship we should do what no nation had ever done, and we should violate the laws of neutrality as well as international law. (Hear, hear.) No doubt it was said that the privilege of exterritoriality was not admitted into the law of nations as an absolute right. That was true. He believed it would be in the power of any state to exclude a commissioned ship. If a commissioned ship came into its waters without permission, no doubt the state would take care to protect itself against such intrusion for the future. But we could not act upon the principle of exclusion without giving notice to the belligerents, and if a vessel commissioned by the confederates, for instance, which, though suspected by this country, had never been traced, were to be seized without notice, it would practically be an act of piracy. (Hear, hear.) Now, was it necessary that he should carry this argument a little further? The Florida went into a confederate port, and was there for some time, and afterward issued from the port. But because she departed from our shores and came back to our shores again, was that a reasonable excuse for seizing her? Were they prepared to go on upon such a footing as this? The unfortunate confederates were no more—they could make no reclamations as to what had been done; but they must look upon this as a question which might arise between this country and some of the great powers of the world; and because a breach of municipal law had been committed on the part of a commissioned ship were they to seize her when she came into one of our ports? Did they suppose if such a proceeding arose in the case of France or Russia or the United States it would not at once lead to reprisals? It must, therefore, produce a most formidable effect on the peace and prosperity of neutrals, and, so far from enabling them to perform their duty, would involve them in endless difficulty and danger. (Hear, hear.) Could this country take such a step as to seize a commissioned ship in these circumstances? How was it to be done? This country was a constitutional, not a despotic country; and not only had care been taken to provide against such an occurrence as the seizure of a commissioned ship, but they would find in that very municipal law—the thirty-second section of the 33d and 34th Victoria, cap. 91—words had been inserted at the end of the clause showing that they had no such right or power. The executive had, therefore, no means of guarding against that which was deemed most culpable in their conduct by the award under which we were suffering. (Hear, hear.) He was very reluctant to quote more than was necessary; but this point had been urged with great force by Sir Roundell Palmer before the arbitrators. ("Hear, hear," from Mr. W. E. Forster.) His right honorable friend cheered, and he should be delighted to hear that his right honorable friend approved the reasoning. What did Sir Roundell Palmer say? He asks, with reference to Rule 1:

"Does this rule make it a duty to seize commissioned ships? The negative answer to this inquiry results immediately from the natural meaning of the words of the rule itself, which plainly refer to a departure from the neutral territory of a vessel which has not at the time of such departure ceased to be subject, according to the law of nations, to the neutral jurisdiction and the cruising and carrying on war by which still rests in intention and purpose only, and has not become an accomplished fact under the public authority of any belligerent power. The rule says nothing of an obligation to exclude. If not excluded it would be a flagrant act of treachery and wrong to take advantage of their entrance to effect detention or capture. Their retrospective application cannot make an *ex post facto* 'due' upon the footing of diligence to the one party in the war, which, if it had been actually done, would have been a wholly unjustifiable outrage on the other. It would be impossible that an act which would be a breach of faith and of international law to one belligerent should be held to constitute any part of the 'diligence due' by a neutral to the other belligerent." (Hear, hear.)

The next dogma laid down was couched in somewhat milder terms, but it had exercised a most material effect on the award. It had reference to the "coaling" of vessels. "Coaling" did not come under "renewal or augmentation of military supplies or arms," therefore it must come under the second rule as stated in the award—"Making use of the ports and waters of the neutral as a base of operations against one of the belligerents." If it could be made out, in dealing with this question of "coaling," that there was a power of coaling in our ports and waters, then going to attack a belligerent, and coming back to get more coals for the same purpose, there might be some pretense for speaking of a base of operations. What was a base of operations? The lord chief justice said:

"A base of operations signifies a local position which serves as a point of departure and return in military operations, and with which a constant connection and communication can be kept up, and which may be fallen back upon whenever necessary. In naval warfare it would mean something analogous—a port or water from which a fleet or ship of war might watch an enemy and sally forth to attack him, with the possibility of falling back upon port or water in question for fresh supplies or shelter or a renewal of operations."

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It was remakable that "coaling" had never been complained of by the United States as regarded the confederates; and both parties coaled on precisely the same terms, only the United States got double the quantity the confederates got. Sir Roundell Palmer said:

"It is no more intended by the second rule to take away or limit the right of a neutral state to permit the coaling of steamers than to take away the right to permit them to receive provisions or any other ordinary supplies previously allowable under the known rules of international law."

No change was, therefore, made by the second rule of international law as to coaling. Yet Count Sclopis held that the Florida and the Shenandoah both improperly coaled on account of the scene of their operations. The Shenandoah, it was said, having coaled at Melbourne, went away and captured whalers in some distant sea: but no one in Melbourne knew where she was going; she did not return, and, as she only received the allowance of coal which the Queen's proclamation sanctioned, there was no pretense for saying that she was making that port a basis of naval operations. To use the language of the lord chief justice—

"We have here another instance of an attempt to force the words of the treaty to a meaning which they were never—at least as far as one of the contracting parties is concerned—intended to bear. It would be absurd to suppose that the British government, in assenting to the rule as laid down, intended to admit that whenever a ship of war had taken in coal at a British port and then gone to sea again as a war-vessel, a liability for all the mischief done by her should ensue. Nor can I believe that the United States had any such *arrière pensée* in framing the rule, as, if such had been the case, it is impossible to suppose that they would not have distinctly informed the British government of the extended application they proposed to give to the rule."

He wished to know how the foreign-enlistment act, as it stood, would enable the government to enforce what was made international law by these rules, because there was no provision in that act under which we could prevent a lighter within our waters going out to coal a vessel; there was no provision in our municipal law which would enable us to interfere; and, therefore, the impracticability of the rules was manifest if we admitted the interpretation under which we were made to pay so severe a penalty. As to the general question of "due diligence," what had it always meant—what was, in fact, the only fair meaning? By the award, under all circumstances, it was made to depend, not upon the duty, but upon the result. It was said we did not take effective measures of prevention; that our measures led to no result, therefore they could not be sufficient, and that the plea of insufficency of legal means was of no avail. A nation had a right to expect from another, in the fulfillment of international obligations, an amount of diligence which might reasonably be expected from a well-organized, wise, and conscientious government, acting according to its institutions and its ordinary mode of conducting its affairs; and it had no right to expect more. This was the ruling of the lord chief justice. We had legal means at least as strong as those of the United States, and for a question to decided *ex post facto*, upon the rules, we had a stronger law; but should we tolerate its being laid down that though we had gone as far in legal means as we thought it consistent with our dignity and our duty to the country, and though we thought our legal means sufficient, if they were insufficient to carry out this impracticable purpose, we were to be liable to compensate any belligerent whom we did not gratify by carrying out the impossible? Foreign states had no right to question the adequacy of our municipal law, which in this country was supreme, so much so that the executive could not contravene without immediately asking Parliament for indemnity. All they could ask us to do was to fulfill our law to the extent to which it exists. It was not to the honor of the country that it should submit to have its municipal law dictated to it by a belligerent. It was for this country to decide how far it should control its citizens in the free exercise of their trade or limit the power of its officers; and it was not for a foreign country to say that we had not made laws such as a belligerent might consider necessary for its protection. It was said that legal evidence ought not to be always required, and that there was reasonable ground to justify action. We replied that it had never been our custom to act upon suspicion without legal evidence. If we acted without it, what was the result? If we prosecuted and failed, we did more mischief than we should if we did not prosecute at all. The failure of such proceedings did infinite harm, because they exposed the weakness of the law and assisted those who wished to evade it. It was said by Sir Roundell Palmer:

"It would be unreasonable and impracticable to require that it (due diligence) should exceed that which the governments of civilized states are accustomed to employ in matters concerning their own security or that of their citizens."

Was that a fair test? It was a true one. We should use such diligence as was demanded by our own imperial interests, and that was all that could be required. Sir Roundell Palmer further said that failure to prevent was not equivalent to want of due diligence; that without a reasonable ground of belief no obligation arose, and that error of judgment was not want of due diligence. On this point he would refer hon-

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orable members to the argument of Sir Roundell Palmer as contained in the Gazette, pages 4623 and 4637, in the course of which he said:

"Without timely information and evidence of a legal kind sufficient and proper to constitute a 'reasonable ground of belief,' no obligation to use any such diligence arises, and the government of a civilized nation cannot be held wanting in due diligence if, having made reasonable provision by law for the prevention of illegal acts of this nature on the part of its citizens, it proceeds to deal with all such cases in a legal course according to its accustomed methods of civil administration. This is, in fact, the 'diligence,' and the only diligence, which is, in such cases, generally 'due' from an independent state to a foreign government; and from this it follows that accidental and unintentional difficulties or delays, or even slips and errors, such as are liable to result in the conduct of public affairs, and from the nature of the subordinate instruments by which, and the circumstances under which, civil government is necessarily carried on, and against which no human foresight can always absolutely provide, ought not in themselves to be regarded as evidences or proofs of a want of 'due diligence' where good faith and reasonable activity on the part of the government itself have not been wanting."

But what said the award? It said that a judicial acquittal, like that of the Florida at Nassau, could not relieve Great Britain from its responsibilities. This implied that we might have taken the step of bringing a vessel before a court which acquitted it, whether rightly or wrongly did not matter, and yet that we should not be free, although the United States admitted it was impossible any government should interfere with its judicial authorities. How was it the decision at Nassau did not relieve us? Because this award made the result the absolute test of "due diligence," and did not allow the steps that were taken to weigh in the balance at all. That, however, was past; he was not arguing the past—that could be done when the chancellor of the exchequer asked for the payment of the bill—he was speaking solely of the future, with the object that these intolerable burdens should not be thrown upon neutrals, who would find it impossible to discharge their duties toward belligerents, and would be driven into war as the lesser of two evils. The Shenandoah coaled at Melbourne and persons got on board her clandestinely at night in spite of the orders and precautions of Sir Charles Darling, and the lord chief justice well said:

"To hold under such circumstances that because the local police were not as vigilant as they might have been, or because under cover of the darkness men may have contrived to elude their vigilance, a nation is to be held liable for damage done by a vessel to the extent of a claim of many millions of dollars, would be to carry the notion of 'due diligence' to an unheard of and unwarranted length, and would be calculated to deprive the decisions of the tribunal of respect in the eyes of the world."

Well, were we to go on with rules capable of such interpretation by future arbitrators? Was there anything unreasonable in asking the government to take steps to prevent our being made liable for any such result? It is quite clear the rules were not self-interpreting; and any one who read them for himself would put upon them an interpretation much more moderate than that of the award. Why should we fall blindfold into difficulties such as those we had just emerged from? It might be that we had cheaply purchased friendly relations with the United States; but if the rules were fatal to our neutrality hereafter, the result might be deplorable. Was it reasonable to ask for these explanations? Was it a breach of the treaty, or would it interfere in any way with our obligations? Perhaps he might be permitted to refer to what occurred a couple of hundred years ago. In 1674 we entered into a remarkable treaty with the United Provinces, enabling them to carry all kinds of things which were not contraband. It then proceeded to enumerate in minute detail everything that was contraband. In spite, however, of the careful manner in which the treaty was drawn up difficulties arose, and in 1675 the parties to it issued an explanatory declaration as to its true sense and intention. Thus, instead of waiting until a dispute arose, they, in the following year, clearly and specifically declared what was the intent and meaning of the articles. He hoped that in 1873 we should adopt a similar course with reference to what was done in 1872. To show that he was not asking for anything which was in the least unnecessary, he would call the attention of the house to what passed in the debate in 1871. First, however, he would remark that if the government were to state to the house that they thought the rules so unsatisfactory that they would not attempt to make them the law of maritime states, his task was completed, and he should have nothing more to say; but if, on the other hand, they were going to recommend them, it was necessary, as he contended, to recommend them with sufficient and accurate explanations. In the course of the debate in 1871 Sir Roundell Palmer spoke in that house with great authority on the subject of these rules, for which, not being in office at the time, he was in no way responsible. The right honorable gentleman said: "With regard to the second rule I confess when I read it first I was somewhat alarmed." Then, on an assurance which does not cover coaling, he adds: "It would be unbecoming in me to criticise any longer the vagueness of the language in which

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this rule is couched, and, without doubt, this construction of it will be clearly laid before those other foreign powers who are to be asked to accede to it."

In the same debate my right honorable friend the member for Devonshire (Sir S. Northcote) said he considered the second rule needed explanation. Consequently, it was clear that whenever it was submitted to other countries for acceptance by them, it must be accompanied by an explanation limiting it in the manner indicated by Sir Roundell Palmer. Last session it was proposed by the government itself to have a supplemental article, which was in point of fact no more than an explanation on the subject of the indirect claims. The treaty had been interpreted in a manner we had neither intended nor foreseen:

"Non hæc in fœdera veni."

And, therefore, the supplemental article was added by way of explanation. In all the arguments adduced in favor of the treaty by the right honorable gentleman opposite, his right honorable friend near him, and other speakers, it was said that the treaty was worth nothing unless it were consecrated by being made international law. The right honorable gentleman at the head of the government remarked:

"A great concession has been made to America, but that great concession lies in this, that we have consented to go to arbitration as to whether there was any defect in the administration of our own municipal law. We have had nothing to add to claims which America was already able to establish against us out of our own mouths, while we have obtained the basis of that understanding which, I hope, will harden and widen into an international law for the benefit of the world. That treaty has laid the foundation of future advantage in the administration and action of international law."

Could it lead to such a result unless it were made clear, distinct, and definite? (Hear.) What England, with her vast extent of sea-board all over the world, wanted was a law to which she could with certainty appeal without laying herself open to enormous and preposterous claims, as to the extent of which we know something in the past but nothing in the future. Let honorable members bear in mind that ours was a constitutional government, and that nothing could be done against property or liberty without the assent of that house and of Parliament. Were we willing to place ourselves at the beck and bidding of any foreign state, and to enact laws which were wrong in themselves, which were contrary to international law, and which would bring about the very evils they were designed to avoid? Of course we must now bow without complaint to the decision of the arbitrators, but we ought, at the same time, to provide for contingencies which might arise in the future. He could not conclude his remarks without calling attention to what Sir Roundell Palmer said in the admirable argument which he finally addressed to the tribunal at Geneva. The right honorable gentleman said:

"Rules of this nature, which could rationally be supposed proper to be proposed for general acceptance to all the maritime powers of the civilized world, must evidently have been meant to be interpreted in a simple and reasonable sense, conformable to, and not largely transcending, the views of international maritime law and policy which would be likely to commend themselves to the general interests and intelligence of that portion of mankind. They must have been meant to be definitely, candidly, and fairly interpreted; not to be strained to every unforeseen and novel consequence which perverse latitude of construction might be capable of deducing from the generality of their expressions. They must have been understood by their framers, and intended to be understood by other states, as assuring the continuance and involving in their true interpretation and recognition of all those principles, rules, and practical distinctions established by international law and usage, a departure from which was not required by the natural and necessary meaning of the words in which they were expressed. They cannot have been meant to involve large and important changes, upon subjects not expressly mentioned or adverted to, by mere implication; nor to lay a series of traps and pitfalls, in future contingencies and cases, for all nations which might accede to them. Great Britain certainly, for her own part, agreed to them in the full belief that the tribunal of arbitration, before which these claims would come, might be relied upon to reject every strained application of their phraseology which would wrest them to purposes not clearly within the contemplation of both the contracting parties, and calculated to make them rather a danger to be avoided than a light to be followed by other nations."

Sir Roundell Palmer spoke the true sentiments, not of an advocate, but of a judge, and he had confirmed his statement by what he had said within the last few days. Lord Selborne said:

"I did not offer to the tribunal at Geneva any arguments on subjects of international law other than those which I honestly believed to be sound and correct. Nor do I suppose that the government have changed their views on account of any opinion which on the face of the award may have been expressed by any of the arbitrators. I do not hold that we are bound by any propositions which do not commend themselves to our reason and judgment with regard to the grounds of their opinion. If we

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continue to interpret the rules (as I think we shall) as we did from the beginning, then we shall expect from the United States a faithful and punctual observance of them according to that interpretation. Under that I do not think that we should be under the necessity of asking Parliament to arm us with any fresh powers."

It appeared that the noble chancellor was of opinion that by such an interpretation we might secure ourselves, that we should not have to alter our municipal law, and that we should be able to act under it without coming to Parliament for new powers. If the interpretation of the award were accepted, it was easy to gather from the argument that it must be necessary to come to Parliament for powers, and yet the United States, which was equally bound with ourselves to these rules, remained under the old law of 1819, under which she could not carry out one-tenth of the propositions here laid down.

The last extract with which he would trouble the house was a statement on the part of the president of the tribunal at Geneva, little thinking how inconsistently he had acted in regard to the principles laid down in this statement. He said:

"We must beware of rendering the condition of neutrals too difficult and almost impossible. The importance of circumscribing war is a matter of continual remark, and if neutrals are to be overwhelmed with a burden of precautions and the weight of responsibility which is in excess of the interest they have to remain neutral, they will be forced to take an active part in the war, and, instead of a proper inaction, we should have an increase of hostilities." (Cheers.)

In that form he had couched the motion which he had submitted to the house. He had endeavored to prove, and to his own feeling he had succeeded in proving, that there were principles laid down in the award which were fatal to the interests of a neutral. (Cheers.) If they were to submit these rules to maritime states, it was most important that they should go to a future arbitration upon plain and intelligible grounds. Let them look to a future, not like the past, of indefinite anxieties and prolonged troubles, such as they had gone through in connection with the American war, but to certain, precise, and definite rules by which they were ready to abide, to the honor and dignity of this country, and to the advantage of every nation, whether neutral or belligerent. (Loud cheers.)

The right honorable gentleman concluded by moving an address to Her Majesty, humbly praying Her Majesty that, having regard to the oppressive and impracticable character of the obligations, hitherto unknown to international law, which would be imposed upon neutral nations through the interpretation placed by the tribunal of Geneva upon the three rules in the sixth article of the treaty of Washington, and upon the principles of international law with respect to the duties of neutrals in connection with the subject-matter of the said rules, Her Majesty will be graciously pleased, in bringing these rules to the knowledge of other maritime powers and inviting them to accede to the same, to declare to them, and also to the Government of the United States, Her Majesty's dissent from the principles set forth by the tribunal as the basis of their award—principles which, by unduly enlarging the rights of belligerent powers against neutrals, would discourage in the future the observance of neutrality by states desirous of peace.

Mr. W. E. Forster, who was received with cheering, said there was much in the moderate and, he need not add, the able and eloquent speech of the right honorable gentleman in which he entirely concurred, although he feared he must ask the house to listen to a few arguments why the government could not accept the motion, and why, indeed, the right honorable gentleman, after some explanations, would not, he trusted, wish to press it. He would, in the first place, touch cursorily upon one or two arguments which perhaps did not affect the main line of the argument. He understood the right honorable gentleman to say that if our municipal law had remained as it was no charge of a breach of municipal law would be made against us.

Mr. HARDY. What I said was "could be maintained against us." I said my belief was we had not been guilty of an infraction of our municipal law.

Mr. W. E. Forster was glad of this explanation, because his colleagues and himself had understood the words in another sense. He himself believed that if our law had been at the time of the American war just as it was at present, the house would not have had any occasion for this discussion. He strongly felt that it was very much owing to the ambiguity of our municipal law that any Alabama escaped or that any of these facts occurred which induced the Americans to make these claims upon us. He must really demur to the statement of the right honorable gentleman that no charge could have been maintained against us if our law had remained as it was. The house must remember that the alteration made in the law in 1870 only made clear the act of 1819, and did not go much beyond the acknowledgment of international obligations which had been made by both nations, and, indeed, generally by the civilized world. The right honorable gentleman spoke of the act of 1870 as a very singular one, but it was the result of an investigation into all the circumstances that had occurred. It was in accordance with the report of a commission of which the lord chancellor, the honorable and learned member, (Mr. Vernon Harcourt,) and himself were members, and

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the act was the result of the unanimous report of that commission. The right honorable gentleman (Mr. Hardy) said that no belligerent had the right to call upon a neutral to carry out its own municipal law. But what, after all, was the object of municipal law? It was to take care that the Sovereign of the country should secure that none of her subjects should wage private war with any country with which that Sovereign was at peace, and to oblige her subjects to observe the duties of neutrals. It was to a certain extent the acknowledgment of what was the duty of a neutral, and it could hardly be expected that a belligerent would not remind the neutral of its own municipal law, and ask for its enforcement. He very much agreed with the right honorable gentleman as to the true meaning of the rules in question; and as to what the Government, and he did not doubt the English nation, considered to be their true interpretation. But then came the question were the government and the house to accept the motion as the right honorable gentleman made it? It was impossible to deny that the motion was a vote of censure upon the arbitrators. (Murmurs of dissent.) To say that the arbitrators had arrived at an oppressive and impracticable conclusion was surely a vote of censure. The resolution did not accuse them of any corrupt motive, but it was difficult to find stronger words than those which it contained. He did not doubt the power of the house to pass a vote of censure upon the arbitrators; but was that course incumbent upon them, or was it a dignified course to adopt? The treaty set forth that the contracting parties agreed to observe these rules as between themselves in future, to bring them to the knowledge of other maritime powers, and induce them to accede to them. The right honorable gentleman said that we ought to accompany these rules with the statement of their interpretation. But our present position was that, after the signature of the treaty, there was a correspondence between the two governments as to the best mode of making a joint communication of the rules to other powers. It was clear that the treaty, following the example of the declaration of the congress of Paris, looked forward to such joint communication, and the house would agree that it would be much better that there should be a joint communication than that each contracting party should send with the rules its own separate interpretation. That correspondence was interrupted by the discussion relative to the indirect claims. The last letter in that correspondence was written on our side, and it remained with the United States Government to re-open that correspondence whenever they felt disposed to do so, when Her Majesty's government would be fully prepared to continue it. It would appear from the speech, although not from the terms of the motion of the right honorable gentleman, that he was of opinion that no time should be lost in bringing these rules before the foreign powers, coupled with a declaration that we disagreed altogether from the principles upon which the award had been made. But on that point he thought the house would support Her Majesty's government in claiming a right to use their discretion as to the best time both for communicating these rules to foreign powers, and for asking the United States to join with us in making that communication. He thought he could claim that forbearance with an almost certainty of success, especially after the remarks which had fallen last night from the right honorable member for Buckinghamshire. He had understood the right honorable gentleman to say that this matter of the communication of the rules to foreign powers was of such immense importance, and of such great difficulty, that even if he had at once taken the reins of office it might be weeks or months before he should feel himself able to state to the country what ought to be done with regard to it. The right honorable gentleman had certainly added that when he did take any steps in the matter he should act with energy and decision. ("Hear, hear," from the opposition benches.) He did not doubt that the right honorable gentleman would act with energy and decision on this or any other question with which he had to deal. He trusted, however, that his noble friend the foreign secretary would adopt a similar course. He trusted, however, that if the right honorable gentleman had had to conduct this matter he would have acted with prudence and not with undue haste, and would show that he was not to be carried away upon the mere impulse of the moment. (Hear, hear.) There were two or three reasons why Her Majesty's government did not think there was any immediate ground for pressing the United States to join us at the present moment in making this communication to foreign powers. In the first place, all the engagements of the treaty had not yet been carried out, and it would be desirable to wait until those engagements were fulfilled before we proposed to take any such steps in the matter. In the next place, it certainly would be advisable to let any heat that might have arisen in either country, in consequence of the indirect claims, cool before we pressed the United States to come to this joint understanding with us on the subject of these rules. In the third place, the house must remember that the United States and England occupied at the present moment a very remarkable position with regard to the rights of belligerents and neutrals. Until the late American war the United States had always been the champion of neutrals, while this country had always been the champion of belligerents. For some time international law had been constantly varying, and had been greatly influenced by the more complete recognition of the two principles—firstly, that it was the duty of every sovereign authority to prevent its subjects from waging

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private war on nations with whom it was at peace; and, secondly, that the commercial rights of neutral nations should be interfered with as little as possible by belligerents. But when the American nation found itself engaged in a war for its very existence, it found that its interests almost of necessity required that it should strengthen as much as possible the rights of belligerents. It was impossible not to expect that in the course of time America would, in some degree, revert to her former position and support the rights of neutrals as against those of belligerents. Under these circumstances it was undesirable that we should press the American Government to arrive at an immediate decision with respect to these rules, and that we should give that country time to recall to its recollection the course it had always pursued during its past history. It was not improbable that the right honorable gentleman would say that the award, and the principles on which it was arrived at, as well as the interpretation which had been put upon the rules by the arbitrators, were so fatal to the rights of neutrals, and were so dangerous to the peace of the world, that we ought at once to enter our protest against them. ("Hear, hear," from the opposition benches.) But what was our present position in relation to this subject? As regarded governments other than the United States, we were not bound by the interpretation which had been put upon the rules in the arbitration, by the principles which had been enunciated during the arbitration, nor even by the rules themselves, neither should we be bound by them until we had asked some foreign nation to accede to those rules, and until such nation had accepted them. As regarded the United States Government we were bound by the rules. They were contained in a solemn treaty, and we were therefore fully bound by them as construed according to the ordinary construction of the English language. (Cheers and counter cheers.) But we were not bound by any opinions which had been expressed with regard to those rules by any of the arbitrators. (Cheers.) We were not bound by any statements which had been made in the conference that had been held previous to the award being arrived at. Neither this country nor America was bound by any statements which had been made by Mr. Adams, who had fulfilled his duty as the representative of the American nation in this country in such a way as to lead to the supposition that if the matter had been left in his hands there would have been no occasion for arbitration. (Hear, hear.) We were not bound by the most eloquent and able statement of our own arbitrator, the lord chief justice of England, who had vindicated the principles of British law and the rights of this country with all the more power because he never forgot his position as an impartial arbitrator. (Hear, hear.) We were not bound by the arguments of our counsel, although he need not say that we were grateful for those arguments. But we were bound in honor by our own declarations and our own statements which were contained in our case, our counter case, and our summary. Was it not better, under these circumstances, to leave the matter where it stood for the present? We had agreed with America to abide by certain rules; we were prepared to abide by those rules according to any fair and reasonable construction which the English language would permit to be put upon them, and we had set forth in our case, our counter case, and our summary the interpretation we put upon those rules as applied to particular facts. What more was it desirable that we should do? Surely the right honorable gentleman did not desire that we should enter into a controversy with the four gentlemen who had signed the award?—a course that would not conduce to the dignity of this country. He could hardly believe that the right honorable gentleman intended to press this motion, which, if carried, would mean that that house thought it necessary to declare that the arbitrators had decided the question between ourselves and the United States in a perverse manner and upon impracticable principles. Such a declaration on our part would make it appear to the whole world that we were rather smarting on account of having to pay a certain sum of money, and that we desired to censure those who had decided against us. But if a vote of censure of this kind were to be passed at all, its terms should be precise, while those contained in the right honorable gentleman's motion were not. We were not called upon in this case to enter into a controversy with the arbitrators on the subject of international law. He could imagine many reasons why the right honorable gentleman should confine his motion to the interpretation of the rules, but he must demur to the award being spoken of as in any sense an "interpretation." It was simply a statement of the opinions of the arbitrators as to what they conceived to be the principles of international law. As to the construction put on the words "due diligence," he quite concurred with the right honorable gentleman in regarding it as extraordinary, (hear, hear,) but it was not, he thought, to be looked upon as an interpretation of those words, but as, in reality, the opinion which the arbitrators thought fit to recommend, as what they conceived to be the principles of international law. He could understand that the right honorable gentleman might think it incumbent on the government to protest against a positive interpretation of the rules because they did not, as it might be supposed they did, admit that those rules bore the interpretation which was placed upon them. He could not, however, imagine the house entering into a dispute or controversy with the arbitrators as to what were the principles of international law. If

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they put upon those principles a certain interpretation, the government did not consider that they had a right to bind them to that interpretation. Indeed, they certainly believed that such a doctrine as that laid down with regard to "due diligence" would not be looked upon as an interpretation of the first and third rules. They were also of opinion that there was in the second rule nothing to prevent the ships of belligerents being in all cases coaled in our ports. They went further, and maintained that it was not the business of the arbitrators to make any interpretation whatever of the rules. The position in which they stood with respect to the arbitrators was simply that they obeyed their award, that they acknowledged the power which had been conferred on them to adjudicate on the disputes between England and the United States, and that they thanked them for their patient investigation under the circumstances. (A laugh.) After all it must be remembered that, in the course of the award, we occupied much the same position as the parties to a lawsuit, who ought not to complain of the decision of the judge unless they believed him to have been actuated by corrupt motives. But, although we might obey the decision of the arbitrators, and thank them for the manner in which they had conducted their investigation, it was not necessary to protest against any of the opinions which they might have thought fit to give, either on the principles of international law or the rules themselves, because it was not admitted that it was their duty to express any such opinions. He contended that the arbitrators had no power to decide on the principles of international law for the future, and he refused to acknowledge their authority as legislators. There was another reason why he hoped the motion would not be pressed to a division. It was no doubt desirable that we and the United States should agree on a joint communication. That was contemplated by the treaty, but the passing of the present resolution would make such a joint agreement impossible. The result of its passing would be the commencement of long and fruitless discussions between us and the United States, the object of which he could not conceive. He was ready to admit that it would be advisable to incur the inconvenience of such discussions and controversies if it could only be shown that it was the best way, or, indeed, any way at all, of avoiding being bound by the principles contained in the award. He, however, maintained that this country was in no way bound by the opinions of the arbitrators, but by the rules and the ordinary construction of those rules. He would merely add that it rested with the United States to re-open the correspondence in the matter, and that the government would be prepared, when they thought fit to do so, to endeavor to agree with the United States in so presenting the rules to foreign nations or to prevent any misconception of their true meaning, and in such a manner as to insure their being accepted by other countries in the sense in which they had been assented to by our own government and that of America. Of course, if there should be a difficulty in arriving at that joint understanding, the joint promulgation of the rules must be postponed until that difficulty had been surmounted. He must, however, express it to be his opinion that the difficulty would not be found to be insurmountable, unless the negotiations on the subject were hampered and rendered almost impossible by such a resolution as that now under the consideration of the house. (Hear, hear.)

Mr. Vernon Harcourt had hoped that the right hon. gentleman would have been able to make on the part of the government a statement more satisfactory to those who sat on the same side of the house as himself. The House of Commons stood in a somewhat peculiar position with respect to the subject under discussion. On the first night of the session the right hon. gentleman at the head of the government informed the house that the rules had been communicated to foreign nations—a statement which, however, had afterwards been set right. The chancellor of the exchequer also stated that we were under treaty obligations at once to communicate those rules without note or comment—to use the phrase employed by a public journal in commenting on the language of the right hon. gentleman the next day. Now, the right hon. gentleman who had just spoken had told the house that they ought not to pass the resolution before them, because it would amount to a censure on the arbitrators. He must, however, protest against the House of Commons being treated in that way. (Hear, hear.) They had heard a little too much lately about votes of censure. ("Hear, hear," and a laugh.) The arbitrators might not, perhaps, be able to resign; he didn't see how they could, but if they could they might not find themselves in a very much worse position soon after. (A laugh.) But be that as it might, votes of censure were not, it was quite clear, such formidable things after all, (a laugh;) and if the House of Commons was not to pronounce an opinion on our foreign relations because, in doing so, it might displease some parties abroad, what, he should like to know, was to be thought of the position of the house as managing the affairs of this great nation? (Hear, hear.) He was one of those who held the opinion—and he was ready to take on himself a portion of the blame—that the House of Commons too much abdicated its functions, and that if it had evinced more courage at an earlier stage of those discussions the country would not be placed in the difficult position in which she now found herself. (Hear, hear.) His right hon. friend, the vice-president

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of the council, said it was not desirable to enter into a controversy with the arbitrators, but such language showed a most extraordinary misapprehension of the resolution. The resolution did not propose any such controversy. We were, of course, much obliged to the arbitrators for the pains they had taken, and the resolution did not ask the government to address them, but foreign governments. He would also remind his right hon. friend that it was an entire misapprehension of the whole character of international law to say that we had nothing to do with the opinions which the arbitrators had pronounced. What was international law? It was constructed out of the precedents furnished by great transactions. That with which the house was now dealing was a great transaction, and the opinions of the arbitrators upon it constituted part of that great mass of precedents by which international law itself was constituted. It was a question, therefore, upon which it became necessary that the opinion of the House of Commons should be pronounced, and it had, he believed, been brought forward by the right hon. gentleman opposite in no party spirit. That was no question for party. (Hear, hear.) It was a question in which all parties alike were interested; and not only the future destinies of this country but the peace of the world was involved in the issue. The right hon. gentleman opposite the other night said that was a much larger question than that of Irish University education; and it was a larger question exactly in proportion as nations were greater than colleges, and as mankind was greater than the class of undergraduates. (Laughter.) Now, he did not object to that transaction because he objected to the principle of arbitration. That was a principle which he always had and always would, to the extent of his humble ability, advocate and promote, believing that it was for the highest interests of civilization that the rule of reason and of justice should be substituted for the barbarism of war. Arbitration, he thought, never could supersede diplomacy; he hoped it would be in the future to a greater extent than it had been in the past, the handmaid of diplomacy. It might, and he hoped it would, be made the great peace-maker of nations. But it was necessary, in the interest of the great principle of arbitration, that they should in some form or another express their dissent from the doctrines of that award. That award, which assumed to settle existing quarrels, in fact sowed the seeds of further quarrels; it bred more dangers in the future than it could have averted in the past; and in his opinion it would be a fruitful source of universal dispute. Instead of circumscribing, as it ought to have done, the area of war, the doctrines which it laid down were such as must extend the area of war by discouraging, as the present motion said, the practice of neutrality. Therefore he could not but regard the doctrines of that award as resembling the Anarch spoken of by Milton, who "By decision more embroiled the fray." (A laugh.) Let them disengage, if they could, the cause of arbitration from those doctrines, and endeavor, for the sake of the principle of arbitration, to defend its character against that most unfortunate miscarriage; let them endeavor to satisfy themselves and the world that arbitration did not necessarily involve in its consequences the promulgation of unsound principles and the establishment of dangerous precedents. (Hear, hear.) He had the honor to receive that week two communications from abroad—the one from a gentleman coming from the United States, bearing letters from one of the most distinguished American jurists; the other a long paper from a very eminent Belgian jurist; and both communications invited the cooperation of students of international law in the cause of arbitration. The only answer he could give to them was that there never was a time less encouraging for such a project than the present, in consequence of recent events. There was some reason to believe that the opinion of American jurists on the doctrines laid down in that award were not very different from those entertained in this country. It was not because the sentence had been given against us that he made these objections, for, as the motion pointed out, what they protested against was not the decision itself, but the doctrines which were to bind them in future, as they would be bound, unless they protested against them, as connected with those rules. He had always thought that upon the old rules of international law in the case of the Alabama this country might have set up and established a justification, but he had never wished that we had succeeded in establishing such a justification. He had believed that precedent was injurious to England, and thought the case itself was of evil example to mankind. (Hear, hear.) Therefore, he had never been desirous that there should not be new rules laid down in that matter. There could be no doubt that the state of international law on the subject was most unsatisfactory. International law, as he had ventured to say, was a law of public opinion of states. It was very much like our constitutional law, where the limits of powers, theoretically independent, were practically settled by precedent and opinion; and although, on the ground of its very nature, it could never be made the subject of rigorous codification, at the same time where they had disputed points which had frequently led to difficulty they might—as they did in the declaration of Paris, and as they attempted to do under these new rules—endeavor to settle difficult points, and bring them to some clearer and more definite understanding. Therefore, he had not objected to the principle of laying down some new rules in such a case. Neither had he objected—on the contrary, he had sought to defend—the giving to

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those rules even a retrospective effect; and for this reason, that although there was a popular and, perhaps, not unnatural prejudice against the retroactive operation of laws of any description, if they desired to modify the law of nations—and it was impossible to say that those rules were not intended to modify the law of nations; in fact, there was a specific article in the treaty which declared that they had modified it—if they desired to modify the law of nations, they could not expect the United States to join them in that modification, unless they gave that country the compensation of the retrospective action of the rules. The indemnity we paid in respect to the retrospective action of the rules was, in fact, the consideration we gave to obtain, in a matter of great consequence to ourselves, a clearer and more decided law in future, and this he had always thought justified the government in the course they took on that point. Therefore, he had regarded it as a statesmanlike arrangement, and one deserving the support of Parliament. He did not complain, then, of the rules because they were new, nor because they were retrospective in operation; but then it was essential that they should give precision to the law, and, unfortunately, that was exactly what they had not done. (Hear, hear.) They failed in fulfilling the condition for which alone it was justifiable to have new rules at all. So far from making the law of nations clearer and more definite, they would deeply compromise the future interests of peace; and, therefore, we had lost the very consideration which alone made it worth while for us to give to America the indemnity to which he had referred. (Hear, hear.) He did not want to be too severe in his criticism of those rules, and, therefore, would only say they appeared to have been drawn about as accurately as an average modern government bill. (A laugh.) They had evidently puzzled the judges abroad quite as much as some acts of our Parliament of late years had puzzled the judges of Westminster Hall; and if the judges abroad had come to a conclusion exactly opposite to that which was intended, why that was only what was occurring every day in our own domestic legislation. ("Hear, hear," and laughter.) How had that arisen? They had been told, and it was a very singular fact, that the government never had, in this country at least, a professional opinion on those rules. The attorney-general had told them he had never seen the Washington treaty, and that the opinion of the law-officers of the Crown had not been taken on that treaty or on the rules. This was a very different course, he believed, from that adopted by former governments, for in the great difficulty in which England was placed by the Trent affair, not merely was the opinion of the law-officers taken, but certain persons, at least one person, eminent for a knowledge of international law, was sent for by the cabinet and consulted by them. Therefore, as regarded the Washington treaty and the rules, the government was *inops consilii* as far as the law of the case was concerned. (Hear, hear.) He would say nothing against the commissioners at Washington, who, in his opinion, were not responsible; and nothing could be more unfair than to lay the blame on the wrong shoulders. He had heard the most undeserved censure passed upon them. He had the honor of the acquaintance, and he hoped of the friendship, of Mr. Mountague Bernard, and he ventured to say that there was no jurist in or out of England who was more competent than that gentleman to deal with such a matter. But what the experience of that case had shown was the great imprudence of attempting to settle the law of nations by the electric telegraph. ("Hear, hear," and a laugh.) It had been said of the celebrated Queen of Bohemia that misfortune came upon her because she "would be a Queen." He thought that misfortune had come upon our government through their saying that they "would have a treaty." ("Hear, hear," and a laugh.) It might be asked, why did he say these things now, and why had he not said them before? Well, he had felt an almost invincible repugnance to the idea of interfering with a treaty in its progress. He felt the responsibility of interposing any obstacle to a settlement with America, but he felt that we had committed a mistake, and that had the matter been more fully discussed in the house our position would have been better. So impressed, however, was he with the ambiguity of the second rule, and with the conviction that it pronounced against the view taken by Earl Granville in his discussion with Count Bismarck as to the supply of munitions of war to France, that he should have felt it his duty to call attention to the subject, had he not found that Sir Roundell Palmer was equally impressed with the danger, and had undertaken to bring it before the house and the country. The right honorable gentleman opposite (Mr. Hardy) had quoted Lord Selborne's subsequent reference to it, but he would cite Sir Roundell Palmer's question and the prime minister's reply, for they formed an irrefragable justification for this motion. The question was one of the class well described as "arranged" questions, and was in these terms:

"Sir Roundell Palmer asked the first lord of the treasury whether the second rule in Article VI of the treaty of Washington is understood by Her Majesty's government as prohibiting the use of neutral ports or waters for the renewal or augmentation of military supplies or arms to a belligerent, only when those acts are done for the service of a vessel cruising or carrying on war, or intended to cruise or carry on war, against another belligerent; and not when military supplies or arms are exported for the use of a belligerent power from neutral ports or waters in the ordinary course of commerce;

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whether any steps have been taken by Her Majesty's government to ascertain that the rule in question is understood by the Government of the United States in the same limited sense; and, if so, with what result; and whether it is intended, in any communications which may be addressed to foreign governments with a view to the general adoption of this rule, to guard against its being accepted or understood in any larger sense."

Thus a new rule intended to make everything precise was so ambiguous as to lead one of the greatest living jurists to put this series of questions, and what was the prime minister's reply?

"With reference, sir, to the first part of the honorable and learned gentleman's question, I perceive that it has been framed with great care, and having considered our reply with equal care, while avoiding entering into any of the details of the question, I am in a position to answer this part of the honorable and learned member's question in the affirmative. In answer to the second part of the honorable and learned gentleman's question, I may state that we have had an opportunity of communicating with Lord De Grey, with the right honorable gentleman opposite, (Sir Stafford Northcote,) and with Mr. Bernard, on the subject, who have all of them given us the fullest assurance that the understanding referred to in the first part of the honorable and learned gentleman's question is that of the United States in reference to this matter; and further, that it has been in our power to communicate with the distinguished gentleman who has arrived in this country as the representative of the United States, who was a member of the joint high commission—General Schenck—who has informed Her Majesty's government that such was his understanding also of the meaning of the rule in question; and, indeed, we have been told by that gentleman that the President of the United States himself understands the rule in that sense, and that the latter would himself be the first not only to admit and allow, but to contend for, that construction of the rule in question. With regard to the third part of the honorable and learned gentleman's question, I am able to state that Mr. Fish, the United States Secretary of State for Foreign Affairs, who was also one of the commissioners, has expressed an opinion that it would be advantageous if the two governments were to make a joint declaration which should place the meaning of this rule beyond all chance of misconstruction." (Hear, hear.)

The rule, therefore, had not been made a week before it became necessary, in the opinion of both governments, to have an explanatory document, and he supposed, if the intention expressed by Mr. Fish was carried out, that such a document existed, for these words were uttered on the 12th of June, 1871, more than a year before the arbitration commenced. The prime minister went on to say:

"I believe that communications have been entered into between some of the British commissioners and some of the United States commissioners and other distinguished authorities in America on the subject, and that they have also come to the conclusion that it is impossible to entertain the slightest doubt but that the meaning to be attached to the terms of the treaty is that which the contracting parties themselves attach to them."

A more unsatisfactory condition than that revealed by this question and answer could not be conceived, for it was evident that the kettle leaked before it was put on the fire at all, (a laugh;) the ship was not seaworthy at the time it was launched. Sir Roundell Palmer had not, however, anticipated the full effect of this position till he got to Geneva, when he made the striking and eloquent protest quoted by the right honorable gentleman opposite, urging that the rules were intended to be interpreted with reference to the principles of international law. What was Mr. Caleb Cushing's reply? The right honorable gentleman had spoken of England as having an admittedly constitutional government; but, according to Mr. Cushing this was a mistake, for Mr. Cushing regarded Italy, Brazil, and the United States as constitutional countries, but held that England could not come within that category, Parliament having an arbitrary power of trying a king, changing a dynasty or a religion, and confiscating the goods of a church, (Opposition cheers,) powers which he deemed characteristic of despotism. Mr. Cushing's reply to Sir Roundell Palmer's protest was that it was too late to enter on the question of what outside the treaty constituted "due diligence," and on the vague region of international law, and that he took his stand on the explicit words of the treaty, which subordinated international law to the compact of the three rules. The arbitrators apparently acted on the view of Mr. Cushing, not on that of Sir Roundell Palmer, and the award embodied three of the most dangerous principles ever attempted to be incorporated with the law of nations. Indeed, as regarded the motion, this was an undefended case, for his right honorable friend (Mr. Forster) had not said a word in defense of any of the doctrines of the award. (Hear.) If, as laid down in the award, coal must not be supplied because a vessel could not sail without it, sails, masts, and indeed even water must likewise be forbidden, as also making a neutral country a base of operations. How was such a rule to be executed? An exciseman would have to be stationed in every ship to see that no article was supplied to a belligerent vessel or even exported in order to be put on board such a vessel.

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It was idle to say that this was not the consequence of the second rule. The casting vote of Count Sclopis in the case of the Shenandoah was expressly given under that rule, and, in his judgment, in the case of the Florida he also dwelt on the question of coal. Mr. Adams was extremely cautious not to commit himself on the subject of coal, as would be seen by reference to the Blue Book, and the infinite danger we incurred under the award was shown by the fact that on the very last day the arbitrators sat, Viscount Itajuba, who had signed the award, entered a protest against the doctrine of coal, because he wished it to be understood that it was safe to supply coal in some quantities, showing that under the award it could not be supplied at all. But the article went further; it went to the whole doctrine of what constituted a base of operations, and extended that doctrine to every transaction whatsoever that could be entered into with respect to a belligerent vessel. Therein lay the infinite danger of the doctrine, and it extended not only to vessels like the Alabama, but to the commissioned ships of the oldest established nations in the world. It applied to the French fleet and to the British fleet. Suppose there was war between France and Germany, and that the French fleet coaled or watered at Heligoland, the German government would have a right to make us responsible for everything that occurred in consequence. We could not be safe under these circumstances unless we forbade the exportation, he might almost say, the trade in coal altogether, not only in England, but in every part of the Queen's dominions. Why, they were about to pay in the case of the Shenandoah a million of money for the acts of officials in Australia over whom the government of England had no control whatever. (Hear, hear.) Could anything be conceived more fraught with danger to us than such a doctrine was? He passed to the second point—the doctrine as to commissioned vessels. That doctrine it was impossible for a civilized nation to receive. If the arbitrators had taken the wise and prudent course of laying down the principle that a vessel illegally armed originally ought to have been excluded from the ports of that country from which she had obtained her armaments, they would have enunciated a principle which, though not established in international law, was wise in itself and might be received by civilized nations. But what they said was, that under the first rule commissioned vessels of war were to be seized and their departure prevented. It was true that Sir Roundell Palmer and Sir Alexander Cockburn said that was not what the rule meant. But the rule was so ambiguous that it did not exclude such a construction, and the arbitrators placed that construction upon it. His right honorable friend, the vice-president of the council, had asked why in the world they should be in such a hurry to do anything in this matter. Why, a war might break out in Europe to-morrow, and commissioned vessels of one or other of the belligerents might obtain coal or water in one of our ports. Under the rule they were bound to seize such vessels, but under the foreign-enlistment act of 1870 they were bound not to seize them. What would be the position of England if one belligerent demanded that, under the rule, the vessels should be seized, while the other, to whom the ships belonged, demanded that, under the foreign-enlistment act, they should be let go free? (Hear.) How could they escape a quarrel under such circumstances? If they were not going to condemn the rule, then they ought at once to suspend the standing orders of the house and repeal the thirty-second section of the foreign-enlistment act. Let them try to conceive a British fleet coaling in some neutral port, if we were at war, and the neutral power being told that their duty was to seize the British fleet. (A laugh.) If there was war between Germany and France, and the French fleet had coaled at Heligoland and then proceeded to the Downs and anchored there, Germany might demand of us to seize the French fleet, and proceed at once against them. And this was the doctrine that was to contribute to the peace of nations. (Hear, hear.) He now passed to the question of "due diligence." He admitted that the phrase was an ambiguous one, and one difficult to define; but what he complained of was that the arbitrators had attempted to define it, and had given it a wrong definition. They said that the diligence was to be proportionate to the risk of the belligerent. (Mr. Forster. Exactly.) His right honorable friend reminded him of a word he had omitted. It was to be exactly proportionate to the risk of the belligerent. (Hear, hear.) What did Mr. Adams say upon that point? Speaking of due diligence, he said:

"This may naturally grow out of the great difference in the relative positions of the two belligerents, which ought properly to be taken into consideration. In the struggle which took place in America 'due diligence' in regard to the commercial interests of one of the belligerents meant a very different thing from the same words applied to the other." ("Hear, hear," and a laugh.)

That was a true commentary upon the doctrine of the award, and that was what each belligerent would say if this doctrine were allowed. "My commercial interests," they would each say, "are very different from those of my adversary. You must, therefore, carry out the law on a totally different principle with respect to him and to me." The true rule was impartiality of action. They could not attempt to reach equality of result. (Hear, hear.) That had always been the principle of international law. They could not enter into the constantly varying circumstances of the belliger-

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ents, but they could be perfectly impartial in their action to both, and leave the result to be what it might. Each and every one of those doctrines violated some cardinal principle of the law of nations, and by each the position of neutrality was made absolutely intolerable. But his right honorable friend said they were not bound by the doctrines of the award. He replied that if they did not protest against them, they were necessarily bound by them. (Hear, hear.) The chancellor of the exchequer said the other night that the position of the arbitrators was not judicial. He thought the right honorable gentleman was wrong in that opinion. The treaty declared that they were to find with reference to each ship according to the law of nations, and according to the rule agreed upon. Anything more judicial than the position in which the arbitrators were placed, it was not easy to conceive. But then it was said that one case did not bind another, and that was true in reference to municipal law. When, however, they came to deal with international law, how did they argue? Why, they referred to the decisions of Lord Stowell, Chief Justice Marshall, or Chancellor Kent, as hereafter, if they were not now repudiated, nations would refer to the principles laid down at Geneva, and rely upon them in support of their claims and arguments. (Hear, hear.) They could not separate the award from the rules. Like Coke upon Littleton, they were one. They might be likened to the Siamese twins. If you endeavored to disjoin them you must kill one, and probably would kill both. In one form or another it behoved the House of Commons to repudiate the doctrine of the award. (Hear, hear.) If they did not, the condition of neutrals would be intolerable. They should do it now in time of peace, for in time of war it would be too late. If, however, they took that step now, and a war arose in Europe six months hence, should a claim be made against them they could point to the fact that they had not accepted, but on the contrary had protested against the principles of the award. (Hear, hear.) When he heard the right honorable gentleman speaking on the question of conciliation there came into his recollection a great speech, one of the greatest on international law which the records of Parliament possessed; he alluded to a speech by Lord Grenville upon the great maritime treaty of 1801. The right honorable gentleman the member for Bucks, the other night, made a claim which, speaking from the liberal side of the house, he could not altogether yield. The right honorable gentleman claimed a monopoly of Lord Grenville for the conservative party, but he could not help thinking that the right honorable gentleman might have remembered the fact that Lord Grenville declined to join Mr. Pitt in his last administration because Mr. Pitt was not in a position to take Mr. Fox into the government. He therefore thought it would be a fair compromise if the right honorable gentleman would permit the reputation of Lord Grenville to be equally divided between the two sides of the house. ("Hear, hear," and a langh.) Lord Grenville, then, commenting in 1801, at the time of the peace of Amiens, upon the treaty with Russia, said:

"Conciliation is, indeed, desirable. It is so always, and it is now indispensably necessary as our last resource against certain and imminent danger. But to conciliate by the surrender of just rights and of essential interests, to purchase present ease by the sacrifice of future strength, is a system which all experience and all history have condemned, a system not less impolitic and ruinous in its effect than it is weak and disgraceful in its principle. But in the present case one sentiment alone can prevail both in Great Britain and in Russia. The desire of every friend of peace and every lover of justice throughout the world must be the same. All must concur in wishing that a precise and unequivocal arrangement on all the matters to which this treaty has relation may confirm and strengthen the dispositions of friendship between those to whom Europe still looks for its preservation, and may stifle the seeds of every possible difference which could either interrupt their present harmony or embarrass their future exertions. By loose and uncertain stipulations on these important concerns no interest is promoted, no right is asserted, no principle is finally established. From ambiguity and doubt confusion and discord only can arise."

This was language worthy the greatest foreign minister whom, he believed, England ever possessed; and if they were to repudiate these uncertain and ambiguous principles, in what way was it to be done on the present occasion? They could, but would they protest against the rules? The lord chief justice of England had already done this in the masterly document he had drawn up. The right honorable gentleman the chancellor of the exchequer, the other day, took him to task for saying that the lord chief justice was upon the Geneva arbitration the representative and the vindicator of the honor and the conduct of England, and it was further alleged against him (Mr. Harcourt) by the right honorable gentleman, that he had imputed to the lord chief justice conduct inconsistent with his position. It was, however, a singular fact that the lord chief justice had since received the thanks of the Queen, which were directed to be presented to him by the foreign minister on the express ground that he had seen to the interests of England upon the arbitration. (Hear, hear.) Further, the lord chief justice was directed in another part of his instructions to defend the character of Lord Russell, which he also did in the document to which he had just referred. What he would suggest that Her Majesty's government might do would be to send the

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rules to foreign countries accompanied by the judgment of the chief justice, and say that the judgment expressed the views of the government on the matter. The only difficulty about this was that the judgment of the chief justice commenced with something like a condemnation of the rules themselves, and that might introduce difficulty and confusion. ("Hear," and a laugh.) What, then, were they to do with the rules? They had never held water from the first. The question addressed by the prime minister to Sir Roundell Palmer, and to which he had already referred, showed that the rules were considered unsafe and required to be explained in order to be understood, and carefully guarded in order that they might not be dangerous. The experience of the arbitration had shown that they had grown more leaky than ever. The rules could not be patched, and were not worth mending, but were, as matter of fact, a piece of careless juridical slip-slop. ("Hear," and laughter.) The best thing Her Majesty's government could do would be to withdraw them and ask the concurrence of the United States Government in such a course. (Hear, hear.) And he thought there would be no difficulty in obtaining this concurrence. (Hear, hear.) They might depend upon it that the United States was no more fond of the doctrines laid down in the award than the government of Great Britain could be. Let them apply diplomatically to the United States Government, after due consideration, to draw up rules which should be worthy the occasion and worthy the object for which the rules were originally drawn. There were great jurists in this country in the persons of the lord chief justice and the lord chancellor, and he ventured to say that the opinions of Sir Roundell Palmer were the opinions of the lord chancellor. In America there were jurists worthy the school of Marshall, of Story, of Kent, and of Wheaton; and he had no doubt that if America were properly applied to, her Government would assist in the drawing of rules which could be offered without explanation or protest to the acceptance of the world. (Hear, hear.) The policy of the United States had always been a policy of neutrality from the time of Washington downward, and they had never been driven out of it except by the exigencies of civil discord. In fact, he thought they had gone a little too far in this direction, and that England ought never to yield the law of blockade and the right to capture private property at sea. (Hear, hear.) They made great concessions to neutrals in the declaration of Paris, and those concessions had worked satisfactorily; but, unfortunately, the tendency of the rules under the treaty of Washington had been to reverse the whole stream of civilization by putting neutrals into a position where a condition of neutrality was intolerable. He was firmly convinced that if the rules were passed into the law of nations there would be no condition endurable for any state except the condition of an ally, and when a war broke out there would be no condition for any government to consider except which should be the side it was to take in the coming war. This legislation seemed to be a legislation against the principles of neutrality and dangerous to the future prospects of peace to mankind. With that conviction, totally irrespective of any consideration of parties, he felt bound to vote for the motion of the right honorable gentleman the member for the university of Oxford. (Cheers.)

Mr. RATHBONE said he could not but think that the motion before the house entirely ignored, as our statesmen had been too much in the habit of ignoring, the greatest danger which threatened the maritime greatness of England, as well as the direction which the efforts to avert that danger should take. During the last American war a few Alabamas practically drove the flag of the second maritime power in the world from the seas. It was not so much the seventy ships which the Alabama sank or burnt at sea that did this. It was the fact that by so doing she deterred shippers from shipping in American bottoms, and thus compelled the American ship-owners either to lay up their valuable ships or to make a forced sale of them to foreigners. (Hear, hear.) The danger which the motion was framed to guard against appeared to him to be unreal. There was very little danger that other nations, and least of all America, until recently the advocate of the extreme license of offensive neutrality, would insist upon maintaining rules or interpretations of international law enforcing too strict an observance of the duties of neutrality. There was, on the other hand, the very greatest danger—nay, the certainty—that the naval greatness of England, as far as it was dependent on her mercantile marine, would receive a fatal blow in the first war in which she was engaged, unless she availed herself of the peculiarly favorable position in which the treaty of Washington and the arbitration of Geneva had placed this country for supplying precautions which were neglected in the declaration of Paris. He urged on the house and the government that it would be fatal not to guard against the dangers to which the precedents of the late American war, coming after the treaty of Paris, had exposed the maritime greatness of England. By the opening of the Suez Canal, England had lost in the trade with the East what was previously the advantage of her geographical position. Now the commerce of the East to Europe would naturally stop at Odessa, Trieste, and Marseilles, instead of coming on to England to go back to Europe. Everybody prophesied that this would be the case; and it was only the energy and enterprise of our ship and steamboat owners, backed by the great capital of England, which had enabled this country to maintain, as it had so far done, its mercantile and maritime position in

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those waters; but if we permitted, as we were in danger of permitting, a large portion of the mercantile marine of England to be transferred to other countries, would it be possible to recover such loss of our position against the additional geographical difficulities with which we should have to contend? Liverpool, London, Hull, and Newcastle were now the head-quarters of the great maritime companies into whose hands so much of the carrying-trade of the world was passing. But when, under the influence of numerous Alabamas, we had changed the points of departure for eastern fleets, and Marseilles had taken the place of Southampton, and so on, would it be possible to recover this? Would it be possible to dispossess foreign maritime nations when they had once got hold of a trade so naturally their own? The motion regarded only the effect of the Washington rules upon us when we were neutrals. But they must also be considered in respect to cases in which we might be belligerents. It appeared to him that to us as neutrals they were no intolerable burden, and that to us as belligerents they were exceptionally favorable, and even vital, to the interests of our marine and commerce in the event of war. These rules only threw upon us the duty of enforcing our own laws as they now stood with the same business-like diligence which we should certainly use if our own interests were directly at stake by the fitting out of a ship in our own ports for the purpose of attacking our own commerce; and unless we could obtain this justice from other nations our carrying-trade must pass, and to a very considerably extent irrevocably pass, into the hands of other nations on the first war. So long as neutrality was imperfect its violations were always likely to irritate a belligerent to declare war against a neutral. In the late American civil war we were very near (few who were unconnected with America knew how near) affording a most fatal proof of this. Did the remonstrances and threats of the Northern States incline us to declare war against them? But he would point out the danger of war which we ran after the treaty of Paris, and after the escape of the Alabama, but before the award of the Geneva arbitrators. Was it not evident that not only Russia but even the minor powers thought they might hold an offensive tone toward England, because they believed, most erroneously, that she would not go to war while America was watching to avenge the escape of the Alabama? Would Russia have abrogated the Black Sea convention in the abrupt way she did had she not entertained this idea? Was not, then, that erroneous idea just the very thing to lead to war? Before the declaration of Paris, in 1856, England in her twofold capacity of possessing the greatest naval power in the world, and of possessing the largest mercantile marine in the world, claimed and exercised not only enormous power of crippling the commerce of any nation which might be at war with her, but also of protecting and carrying on her own commerce. The declaration of Paris deprived her of most of the power of crippling the commerce of another country, and of most of the power of protecting her own mercantile marine in the enjoyment of their commerce. Now, the rights claimed by England frequently brought her into collision with neutrals, and occasionally into war with them, and therefore it was wise to abandon them. But just compare for a moment the position which other countries and the position which this country occupied before the declaration of Paris with the position which they now respectively occupy. Before the declaration of Paris we claimed and exercised the right of capturing ships and cargoes belonging to any enemy under any flag, and practically our great naval force gave us the power of almost annihilating the commerce of our enemy. By the declaration of Paris we surrendered the right to interfere with the commerce of our enemy, except by an effectual blockade, or when carried on under its own flag. What, then, would now happen to our enemy in case of war? Simply, it would carry on its commerce under neutral flags, and sell its own ships to neutrals, which most nations would be enabled to do without too great a sacrifice; because the number of ships owned by any nation, except England, were not of greater value than capital available for ship-owning could be found to purchase. The house would see at once, therefore, that our power of injuring an enemy was enormously reduced; and, indeed, except as regarded blockade, was perfectly insignificant as to any possible effect upon the resources of an enemy, and, consequently, upon its power or willingness to go on with the war. Now, what was formerly the position of England in a war, and what would its position be now? Formerly cargoes were liable to seizure wherever found, and under whatever flag they were shipped. It therefore was the custom to ship in British bottoms, and to wait for a British convoy, which our great naval power enabled us to give. Now, if shipped under a neutral flag, our commerce would be free from capture, and, as long as any neutral ships were available, no one would wait for a convoy in order to ship in a British ship any valuable cargo; for, in addition to waiting, he would have to pay a higher premium for insurance than he would pay in a neutral bottom. Therefore, as every ship-owner knew, the days of convoy were absolutely at an end. And if the precedents of the Alabama and the Florida could not be guarded against; if ships of war could be fitted out and allowe to sail from neutral ports to prey upon the commerce of England, every practical ship-owner knew that the mercantile marine of England would be driven from the seas. A certain small portion of her ships might find employment by carrying cargoes of

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small value on which the rate of freight was of more importance than the rate of premium of insurance. For a time a certain portion of her ships would be necessarily employed, because there would not be neutral vessels to do the work. But the greater part of them would have to be laid up or sold at a ruinous loss to foreigners, for we could not continue to carry on a trade in which our ship-owners would be at a disadvantage of more than 30 or 40 per cent. as to net results as compared with foreign ship owners. When America was at war the quantity of ships which she had to sell found a fair market without any ruinous reduction of price, because the number was not excessive, and the ship-owning power and capital of England were there to buy the ships. But who is to buy the enormous mercantile marine of England? (Hear, hear.) You would have to offer ruinous concessions to induce people to do so. So that the loss of England would not only be on a much larger amount of property than the loss inflicted by such a process upon any other country, but the proportionate loss on every pound would be greater. Perhaps he should be told that the American navy was entirely engaged in blockading, and, therefore, did not care to catch the Alabama, and that our immense naval power would be able to give a good account of any such attempts in future. Now, he quite admitted that our navy would be able to give a good account of the navies of any other nation; but if Alabamas were to be allowed to be fitted out in neutral ports, he believed that the protection of our commerce would be beyond its power. We should have to deal not with one, two, or three of such vessels; and the style of vessels which we were now building for the defense of our shores and for naval warfare were entirely unsuited to perform the minor duties of the police of the sea. Captains and Warriors were too expensive and cumbrous to do the work of catching Alabamas. It would require an immense number of light ships of war, especially built for the purpose, to perform this duty. Steamers could now be built with such small consumption of fuel that they could keep the seas without coming into port for months and months; and unless such a steamer comes into port how were you to find her? She would appear, say, first in the track of the Atlantic trade, burning or sinking half a dozen ships, and putting their crews in the last vessel captured; and then, before that vessel could reach a port and give the alarm, she would be half way to the Pacific Ocean, capturing on her way some of our eastern mercantile fleet; and before betraying her position there be in the Pacific. It was not the number of vessels destroyed; commerce was very sensitive; the margin for profit in ship-owning was not large, and by enhancing rates of insurance it would compel the laying up or the sale of the ships. He need not attempt to show that the maintenance of our mercantile marine is essential to the maintenance of our national greatness as a maritime nation; but he thought he had shown the immense loss which would be inflicted upon England by the precedents of the late American war, unless they were canceled by the new rules of maritime international law which had been laid down, and which he hoped would be adhered to. The Washington rules simply adopted the principles which we adopted in the foreign-enlistment act of 1870, and made them internationally binding. They were wholly in our favor as compared with any other country, in proportion as our marine and commerce were the greatest. No country had so much to gain by their enforcement; none had anything comparable to lose by their neglect. The real question was whether we were to sacrifice this safety, which we had obtained after such tedious negotiations and at so heavy a cost, and which only the exceptional circumstances of America had given us the chance of obtaining, in order that exceptional profits might be made in a few ship-building yards, in violation of the intention of our own laws. As a practical man of business, he would say a word upon the well-meaning but fallacious arguments which have been used by great statesmen and lawyers about protecting our manufactures. Nobody built a ship of war on speculation. There were too few customers for such an article, and it was perfectly easy for any man who was building a ship of war for a nation with which we were at peace to give indubitable evidence that he was so doing. In following the shibboleth of non-interference with trade and manufactures we were in danger of licensing the building of pirates. It would have been better, in the interests of peace and of all great maritime countries, especially Great Britain, to extend the declaration of Paris so as to protect from capture all private ships and goods, except in the case of an attempt to force a blockade, or in the case of actual military necessity. But it would be madness to throw away an interpretation of international law which, though for the moment against us, seemed contrived for our special benefit in the long run. Having felt the inconvenience of an abuse of neutrality, the Americans had contended for the strictest precautions against such abuse in the future. We, on the other hand, had found ourselves in the unusual position of wishing to limit belligerent rights, and of feeling the difficulties of neutrality. Next time our positions might be reversed. He thought he detected in the cautious manner in which the leader of the opposition alluded to this subject last night a warning to those who might not see as far as he did during the late American war. He trusted the opposition would imitate that patriotic and statesman-like forethought which he so conspicuously displayed throughout the whole period of the American war, and for which this country ought forever to be grateful to him.

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n conclusion, he entreated the government, in the interests of peace, not to lose the present favorable opportunity of inducing other nations to concur in the adoption of rules that would prevent practices which had never abridged war a single day, but which, on the contrary, tended to increase its evils and to extend its area. Such a course would be not only just and humane, but in the end would prove to have been statesman-like.

Mr. GREGORY said that the honorable member who had just sat down had treated the question purely from a commercial point of view, but it was one of much wider scope and much greater importance. It was a question which involved principles of right and wrong, of peace and war. He ventured to say that there was no such mutuality of advantage to be derived from the award as was maintained by the honorable gentleman. This country possessed ports and estuaries not only at home, but in every portion of the globe. In these ports and estuaries vessels might be equipped, and from them expeditions might sail which might bring us, in spite of all we could do to maintain our neutrality, within the terms of the award, and expose us to the claims of belligerents. And here he could not help expressing his surprise at the way in which Her Majesty's government proposed to meet, or rather to avoid, the issue raised by the right honorable gentleman, the member for the University of Oxford. He should have thought that Her Majesty's government would have been glad to take on this subject the opinion of the country as manifested by the House of Commons, and he could not but believe that if they had done so at an earlier period of the negotiations which had led to this treaty we should have heard but little of the disputes in which we were now involved, and which had occupied our thoughts during the last session of Parliament. What he understood the right honorable gentleman (Mr. W. E. Forster) to say was, that Her Majesty's government had entered into a correspondence with the Government of the United States with a view to some joint agreement as to the rules, and that this correspondence had now ceased and was in abeyance. But that seemed to be very much the position in which this country was placed at the time the negotiations failed between Lord Derby and Mr. Reverdy Johnson, and he could not help thinking that if at that period this house had been taken into the confidence of Her Majesty's government a treaty would have resulted very different in its terms from that which had been imposed on us. He had been still more astonished by the statement of the right honorable gentleman that the arbitrators in their award had not interpreted the rules laid down in the treaty. It appeared to him that they had not only interpreted the rules in terms, but had gone still further by applying those rules to their award, and condemning us to heavy damages. He could not conceive any stronger interpretation of a principle than its application to individual circumstances. The honorable gentleman then related in detail the history of the Shenandoah, for which we had been condemned in damages to a large amount, because the authorities of Melbourne, with the limited police at their disposal, found it impossible to prevent an abuse of their hospitality by the captain of that vessel. The government of Melbourne was a distinct and independent government, and yet the people of this country were held liable for its omissions, if omissions they could be called. The act of 1870, coupled with these new rules, had imposed on us fresh liabilities of the most onerous character. The building and equipping of a ship had now been put into two distinct categories, and both were made liable to penalties, even to the forfeiture of the ship. Under the 13th section of the act the supplying to any belligerent ship in our ports of a mast, a sail, an oar, spar, or tiller would be "equipping" her, and for any one of these she was liable to forfeiture. It was a principle of international law that a belligerent observing the municipal law of the country had a right to call that municipal law into force against the other belligerent; so that we might be called on to confiscate any vessel which had been supplied in our ports with any of the articles described. He ventured to think such a condition of things would not be tolerated by any belligerent without involving us in war. There was another liability which flowed from the principles laid down by the tribunal of Geneva. The rule formerly was that a country or government could not be called upon to act except on evidence which rendered it reasonably certain that they would obtain a conviction in their own courts. But according to the judgment and reasoning of the arbitrators it appeared that a neutral was bound to take the initiative at the instance of a belligerent on any information, whether it were such as would justify them in instituting proceedings before their own tribunals or not. Upon any hearsay report, rumor, or unauthorized information the government might be called on to interfere. These were great and heavy liabilities under which no government was safe. (Hear, hear.) They could not ask any government to accept them, and if they did he believed every country would repudiate them. They were unworthy of the English government to recommend to any other country, and he hoped they would be rejected by the House of Commons. (Hear, hear.)

Mr. LAING thought the observation of the right honorable gentleman (Mr. W. E. Forster) who addressed the house early in the debate from the treasury bench was absolutely conclusive as to the decision which should be come to by the house, that, in

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order to approach the other neutral nations with advantage on the question of these rules, it was necessary to come first to an amicable understanding with the Government of the United States, and he appealed to the house not to precipitate matters while the heats which had been engendered were still in force. Questions of vital national importance had been raised in the course of this discussion, and it was fitting that the opinions, not only of lawyers, but of men engaged in commerce, should be heard. The epithets "intolerable," "dangerous," "mischievous," had been applied to principles put forward in the Geneva award which he ventured to say men of common sense engaged in business would regard as of the utmost value to the permanent interests of the country. There could be no doubt that the interpretations put by the Geneva tribunal on the three rules of the sixth article of the treaty of Washington would henceforth have a considerable moral weight attached to them, partly on account of the nature of the tribunal, and also because they corresponded to a great extent with an increasing current of public opinion throughout the civilized world. He agreed with the right honorable gentleman opposite (Mr. Hardy) that it would be wise to endeavor at an early date—though not at present, for the conclusive reasons urged by the right honorable gentleman on that side (Mr. W. E. Forster)—to come to a mutual understanding with the maritime powers as to the precise definition of the articles, so that we might not expose ourselves to be overtaken by another war while such important questions still remained in a state of doubt and uncertainty. The general effect of the rules was to render the equipment of vessels like the Alabama more difficult, and to make it almost impossible for them, even if they succeeded in escaping with full equipment from a neutral port, to cruise and prey upon the commerce of one of the belligerents. Without the slightest hesitation, he said that this result would be highly beneficial to Great Britain. The increasing horror of war had led to the growth on the continent of a school of eminent jurists who, by their writings, had greatly influenced the current of public opinion on questions of this kind. In fact, all the changes made of late years in international law sprang out of the formation of what might be termed an international conscience and an extreme aversion from war. The new principles he had indicated could not be explained away by abstract legal reasoning, and it became us to inquire how the application of them would affect British interests. Surely it was a bad policy to run counter to the general tendency of the times, and it was better to run with the tide than against it. We could not maintain the old principles without alienating other powers; and that this was no theory was shown by the two instances which had arisen in the cases of the United States and Germany, the two powers of all others with which it was important we should cultivate a cordial understanding. We had every interest and every enemy in common with them; and yet during the late war our good relations with Germany were threatened because we could not alter our system apparently to favor the stronger power. Assuming that it would be advantageous to enforce as much more stringency as would prevent the recurrence of cases like that of the Alabama, he urged that the difficulty of an escaped cruiser obtaining a commission at sea could not be met until the new rule was recognized, when the escaped cruiser would remain tainted with the original offense, and might be arrested at any time, in which case Alabamas would not be built, because, even if they could get out, they could not be covered by commissions. As regarded coaling, the case was stronger, because we had established coaling-stations all over the world for our own advantage, and it would not be a matter of indifference to us if, in time of war with Russia, a vessel escaping from the United States and receiving a Russian commission could coal at San Francisco or any Pacific port. It was obvious that the establishment of the principle laid down in the award would be enormously in favor of this country. Any inconvenience we might feel in a condition of neutrality could not outweigh the immense advantage we should have as belligerents. Indeed, those inconveniences had been more than half obviated by the passing of the foreign-enlistment act of 1870, by which we were enabled to take more effective measures to prevent cruisers escaping. It was admitted our law was now more stringent than that of any other power; there was no chance of our altering it; and it was therefore our policy to induce other powers to accept the same engagements. With respect to "due diligence," there had been some exaggeration as to what was stated to be the meaning of the term in the award. The inconvenience which might accrue to us as a neutral power might be obviated by the act of 1870 and by the growth of public opinion, which would co-operate with the government in preventing Alabamas from being built and fitted out. Whatever might be thought of the interpretation put upon the rules by the commissioners, the house could not get rid of the three rules in the treaty. When they got rid of collateral considerations, it was possible that there might be the loss of a little profit to ship-builders and gun-makers in the emergency of war arising; but there was no practical difficulty in making regulations for the public interest by the seizure of suspicious articles, subject to compensation if they were taken wrongfully. Against any loss or inconvenience of this kind which might possibly be experienced in cases in which we were neutral, there must be set off the enormous advantage that would accrue in the reverse case of our becom-

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ing belligerents, and having to deal with neutral powers. The United States was the country from which we had most to fear in the equipment of vessels of the Alabama class in case of our being engaged in war. He felt much more highly the indirect than the direct advantages that would result from these rules. The house had heard much of the honor of the country, and it had been asked whether we were to alter our municipal law at the dictation of foreign powers. We had not done this, nor was it in the interest of any belligerent that we should do so. If we altered our municipal law, it was because we thought the change right and just, and not because dictation was employed by foreign powers. There had been two instances in modern history when this country had incurred considerable humiliation. In the first instance, one of our statesmen had expressed a degree of sympathy for Denmark, and had declared his intention of taking a position which was afterward found to be untenable. In the other case of the United States, when complaint was first made and arbitration was suggested, we mounted the high horse and would not admit that there was any blame on our part. We also took in that case a position afterward proved to be untenable, but in the wisest and most patriotic manner Her Majesty's government and the commissioners at Washington effected the best retreat in their power from that position, and they closed the question with great benefit to the country, and removed the unhappy differences that ought not to exist between the two countries. In the case of Central Asia, our frank acknowledgments to Russia caused us not only to be spared a great humiliation, but to be treated with consideration. It was said that England had been disgraced forever, and all because some stipulation that was in its nature temporary had been adopted. He warned the house that if they passed the resolution of the right honorable gentleman (Mr. Hardy) they would be preparing for themselves a bitter crop of humiliation similar to those which this country had before experienced. (Hear.)

Sir S. NORTHCOTE said that when he listened to the speech of his right honorable friend, (Mr. Hardy,) and observed how carefully he avoided anything reflecting on the conduct of the government in regard to the negotiations at Washington and subsequently, and also observed how very cautiously and respectfully he spoke of those distinguished persons who acted as arbitrators at Geneva, although he disputed their conclusions, he felt that the question had been placed before the house in a way that could give no offense, and which might challenge a reasonable and fair attention; and when his right honorable friend sat down he hoped that some member of the government would rise, and although he might not accept the precise terms of the motion, and might even, under the circumstances, deprecate a division, and although he might further take exception to certain parts of the resolution with which he might be unwilling to agree, yet he did hope that whoever might rise on the part of the government would place the matter in such a position before the house and the country that all might feel that the national interest would be safe in the hands of the government, and that a course would be followed which would prevent the evils his right honorable friend feared would happen. He was, however, greatly disappointed when he listened to the very remarkable speech of the right honorable gentleman the vice-president of the council. Grave as undoubtedly the situation was before that speech was delivered, it left the house in a position infinitely more unsatisfactory. He had always thought that, somewhat checkered though the fortunes of England throughout the negotiations and the arbitration might have been, we should have derived at least the one advantage that the question of the rights and the duties of neutrals in time of war would have been settled and placed upon a basis which, whether we were or were not satisfied with the arrangement, would be one about which there could be no misunderstanding. (Hear, hear.) He had always understood that it was one of the main inducements to us to enter into the Washington negotiations that we should put an end to the uncertainty as to the rights and duties of neutrals which had led to the differences between ourselves and the United States. But what had the right honorable gentleman opposite told them? He had told them that things were to be left in the same position of uncertainty as before, or rather, as he had understood the right honorable gentleman's speech, they were to be left in a state of greater uncertainty than before. The right honorable gentleman had told them, what they knew well enough before, that we were bound to accept the award of the arbitrators. Nobody had the least inclination, neither would it be consistent with the dignity of this country were we for a moment to question the award as it affected ourselves in the particular cases under consideration. We might think that the judgment had gone against us unexpectedly, and we might have had our own views on the subject, but we had accepted the award frankly and without reserve. But when the house proceeded to consider that which was really the important question now under consideration, and upon which the right honorable gentleman had dwelt so much—what was to be the rule of the future, what had the right honorable gentleman told them? Had he said that we must acrept the *dicta* of the arbitrators? Not at all. The right honorable gentleman had said that he joined the right honorable member for the University of Oxford in objecting to and protesting against many of the doctrines which the arbitrators had laid down. But did the right honor-

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able gentleman altogether reject the *dicta* of the arbitrators; and was he prepared to adopt the counsel of the right honorable member for Oxford University, that in proposing these rules to the other nations of the world for their acceptance we should qualify them by placing our own interpretation upon them? Not at all. The right honorable gentleman said, "Oh, dear, no! as at present advised we intend to do nothing at all until we hear from the United States what they are going to do." (Hear, hear, and a laugh.) The right honorable gentleman said that we must wait for the answer to our last communication with America; he had not given the date of the last communication, but it must be at least twelve months old. (Hear, and a laugh.) The matter, however, did not even rest there. The right honorable gentleman had told the house further with regard to the *dicta*, about which so much had been said that, although we were bound by the award, we were not bound by anything outside of it that had fallen from the arbitrators. He also said that we were not bound by what might have fallen from our own arbitrator, distinguished as he was, nor even by the arguments of our own counsel. He said, however, that we were bound in honor by what he had laid before the tribunal in our own case, counter case, and summary. Without doubt that was so, but what was to be inferred from that statement? If we were to be bound by our case and counter case, by what were the United States to be bound? He supposed that, equally with ourselves, the United States would set aside the *obiter dicta* of the arbitrators, but surely they would also believe themselves to be bound by what appeared in the case, counter case, and summary which they had laid before the arbitrators. And here, of course, we should come to a dead-lock. (Hear.) We should have two opposing views of international law set forth in the respective cases, each party bound by its own exposition of that law, and all that had taken place would go for nothing. (Hear, hear.) If that were the real position in which we were placed it would be a most unsatisfactory and disappointing one. (Hear, hear.) He had understood that when these negotiations were proceeding at Washington the object which the government had in view was two-fold—that they had in view, in the first place, the special and temporary object of bringing to a settlement the differences which had arisen between this country and the United States, and that over and above that they had another more important and permanent object in view, that of settling the vexed question of international law which had given rise to those differences. The form of the proceedings which had been adopted at Washington was undoubtedly one which had occasioned some considerable embarrassment because of the attempt which the government were making to carry out both of these objects at once. The consequence was that in drawing up the rules, which were to be at once the rules for permanently settling the international law and the rules to settle our temporary difference with the United States, both sets of commissioners were placed in a very difficult position, because they had in a manner to look both forward and backward at the same time. They had to consider not only how the rules would carry out the more important and permanent object, but how this or that set of words would affect the case which was to be laid before the arbitrators. Consequently, the operation of framing these rules was very difficult, and he might say without offense that it was not performed in a thoroughly satisfactory manner. He felt very strongly at the time, and he had no doubt that everybody connected with the proceeding also felt, that that operation was being conducted under great disadvantages. He did not know what mode of proceeding would have been better, and undoubtedly any other mode would have been open to objections which it was unnecessary for him at that moment to go into. Had the course been adopted of endeavoring to settle the differences with America before entering upon the consideration of the question of what the future international law was to be, great difficulties would have been found in separating the two operations, and objections might have arisen which would have overweighed the advantages which such a course of proceeding might have appeared to offer. But, on the other hand, in attempting to do the two things at once our commissioners were obliged to be excessively cautious not to allow anything to be inserted into the rules that would admit our liability when we went before the arbitrators; and, on the other hand, the United States commissioners were obliged to be equally careful not to admit anything in the rules that would prejudice their claims against us. The consequence was that these rules were framed in a manner which rendered them open to observation in respect of their not being either so full or so clear as they should have been with reference to the future. A great deal had been heard as to how far a commission should exempt a vessel that had escaped from neutral territory from the consequences of her having committed a breach of neutrality, and also as to how she would be affected in the event of her having reached a port in her own country after having effected such an escape. These matters had been fully discussed by the commissioners at Washington; but it was found impossible, in consequence of the number of questions which arose, to arrive at a satisfactory conclusion with regard to them, and consequently these matters were not mentioned in the rules as clearly as was desirable. The position we now found ourselves in was this—the arbitrators, in deciding upon the various cases brought before them, had uttered

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expressions and had embodied in their judgments principles which were extremely embarrassing with regard to the consequences of vessels commissioned or which had reached her own ports after fraudulently escaping from neutral territory. What he would bring under the consideration of the government was that it was desirable that we should now do that which we could not do at Washington, and take the opportunity of endeavouring to settle these matters. (Cheers.) It was obvious from the confession of the right honorable gentleman opposite, and from the general sense of the house, that it was impossible that we could rest satisfied with the *dicta*, which were in fact something more than mere *dicta*, which were embodied in the award of the arbitrators at Geneva with regard to commissioned ships and ships which, after violating neutral territory, had reached the belligerent port. Under these circumstances it was necessary that we should come to some arrangement on the subject. These matters could not be allowed to remain as they were, because international law, naturally of a rather vague character, could only be said to be established when it was founded upon principles to which all nations had agreed. If you found a general principle upon which nations had agreed, you might assume that principle to be a part of international law. But a principle which one nation maintained to be correct and another incorrect, could not be so accepted; nor could the question be settled by writers, however eminent. This was the view so ably put forward by the lord chief justice. The question was one which could only be settled by agreement among nations; and this was the reason why certain views here were embodied in a treaty, and why it was resolved to submit them to other nations in order that they might be incorporated into international law. The reasons which made it important that these views should be settled were as strong now as they ever were; but it was equally clear that if they were to be incorporated into international law they should be made intelligible and such as all nations could accept. A good deal has been said as to whether such and such a rule would be for the interests of England, or for the interests of belligerents or neutrals. We must view this question, however, not from the national but from international point of view; we must not consider the rules which were desirable in the interests of our own country, but those which all countries would be ready to adopt. Now, other nations could not be expected to adopt these rules with the interpretation put upon them by the arbitrators unless there was some clear explanation and probably some modification of them. It was very well to talk of the sayings of the arbitrators as *obiter dicta*. He did not know precisely the definition of an *obiter dictum;* but principles inserted in the body of an award as the principles upon which the award was founded were surely something more than *obiter dicta*. (Hear, hear.) He should have thought also that when the arbitrators explained the meaning of their decisions, these explanations were something more than *obiter dicta*. (Hear, hear.) And when *obiter dicta* led to so very substantial a conclusion as the payment of upwards of £3,000,000 by one nation to another, common sense suggested that, whatever name you gave to them, they must exercise as precedents an important influence upon the law of nations. (Hear, hear.) We could not, then, as the vice-president of the council calmly suggested, afford to leave the matter as it stood until the United States chose to take it up, meanwhile considering each nation bound by its own opposite view of international law; nor could we allow Great Britain by tacit assent to give color to such principles as were laid down by the arbitrators. (Hear, hear.) He did not wish to exaggerate the importance of those principles. There had been a tendency in some quarters to do so, and to give a general application to principles which were only meant to apply to the particular case. Still, strong doctrines had been enunciated at Geneva. Thus it would be impossible for any nation to attempt to come up to the arbitrators' standard of due diligence. We might, however, expect that standard to be somewhat lowered hereafter. But the doctrine that a judicial decision, obtained by the authorities of a neutral nation, in the case of a vessel, was not to free that nation from responsibility, was such an extraordinary doctrine that, without explanation, we should only insult other nations by asking them to adopt it. (Hear, hear.) How did this matter stand? Count Sclopis, in the case of the Florida, said:

"The decision of the admiralty court might be considered correct as between those who claimed the vessel and the British government, which claimed its confiscation under the clauses of the foreign enlistment act; but it was not sufficient to bar the claims of the United States against Great Britain. The United States were not parties to the suit; everything relating to it was, therefore, to them *res inter alios acta.*"

Now the whole scope of the decision of the arbitrators was that the neutral government ought to proceed against the vessel without requiring any notice or action on the part of the aggrieved belligerent. Well, the neutral government took proceedings, went before the judicial tribunal, and failed in the suit. But, then, according to Count Sclopis, it was *res inter alios acta*, because the aggrieved belligerent was no party to the suit. This view obviously placed the neutral government in a difficulty. The aggrieved belligerent would have a double chance. If the suit went in his favor, of course all was well. If, on the contrary, it went against him, he would say, "I am not bound by the decision, because it is *res inter alios acta.*" (Hear, hear.) Then another

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of the arbitrators, M. Stæmpfli, expressed his opinion that "as regards municipal law the judgment is valid, but as regards international law it does not alter the position of Great Britain." What an extraordinary doctrine! The question was whether Great Britain exercised due diligence. It was admitted that the British government proceeded against a vessel which there was ground for suspecting, and brought the case to trial in the only way open to them according to British law. It was further admitted that a decision was arrived at in a regular and formal manner; no allegation was made of corruption or fraud; yet we were told that having done all this, and the judgment being valid as regards municipal law, the position of Great Britain was not altered, and that those proceedings had no effect whatever. Was it possible that such a doctrine should pass without challenge? (Hear, hear.) And was it not reasonable that those who were trying to introduce such rules into international law should be prepared either to justify, or propose an alteration in, the decision of the arbitrators? (Hear, hear.) He did not wish to discuss further a subject which had been so ably discussed already. He did wish, however, to urge upon the government that they should not treat the motion of his right honorable friend in the spirit which it had been treated by the vice-president of the council. (Hear, hear.) He should be the last person to wish to throw a slur upon the treaty, or upon the rules included in the treaty, and he should be the first to regret anything which might lead to the failure of an attempt which he believed was wisely conceived and courageously carried through. The objects which the government had in view, especially the great object of endeavoring to settle the principles of international law, were worthy objects, and the government undertook those negotiations with an earnest and firm determination, if possible, to bring them to a settlement conducing to the honor and interests of the country. With this view they spared no labor; they were prepared courageously and patriotically to face the sneers and the cavils to which some portions of the arrangement were sure to expose them; and he knew that they acted throughout with a sincere belief that what they were doing would be of advantage to their own country and to the civilized world. He thought he might venture to say for those who sat on his side of the house that at no period of these transactions had they shown any desire to impede or hamper the proceedings of the government in this matter; that, on the contrary, they had endeavored to assist the government as far as they could do so consistently with their own view of the public interests. They had now arrived at a period when further action on the part of the government appeared to be imperatively called for. (Hear, hear.) It appeared to him, and if he gathered correctly the sense of a large portion of the house it appeared to them, that if they stopped where they were, he would not say with reference particularly to a quarrel with America, but in all other respects, they would leave themselves worse off than they were before the treaty of Washington was negotiated. He would, therefore, urge the government not to neglect the opportunity now offered to them, not to neglect an expression of opinion that was, he thought, almost unanimous, with regard at least to the spirit in which the motion was conceived and the way in which it had been brought forward. He would ask the government not to allow them, by ill-timed negligence, or by an unwillingness to move, to drift into what he believed would be a serious national and international embarrassment. (Cheers.)

The ATTORNEY-GENERAL rejoiced that it was his fortune to follow his right honorable friend opposite, to the tone and temper of whose speech it was impossible to take the slightest exception. Yet in that speech, as in almost every other made in that debate, two somewhat inconsistent lines of observation had been followed. There was the discussion of the particular motion before the house, which was one thing, and there was also the larger, and perhaps in one sense the more important, discussion of the treaty of Washington with the three rules embodied in it, and the interpretation put upon them by the tribunal at Geneva. Now, the House of Commons ought to look carefully to the phraseology of the resolution which it was now invited to pass. He did not impute to the mover the least intention even to embarrass the government, still less to place the country in any false or embarrassing position. Still, if the right honorable gentleman (Mr. Hardy) would bring a fair and candid mind to the consideration of that question, he was sure that if he were in the position of one of the arbitrators against whom his resolution was directed, he would feel, in spite of what the honorable and learned member (Mr. Harcourt) had said, that the motion was a direct vote of censure upon him. (Hear, hear.) He was sure the right honorable gentleman, after such a vote, would feel that his position was intolerable, and that he had been treated contumeliously. (Hear.) It was to the motion of the right honorable gentleman that the house was asked to assent, not to what the mover intended. Having quoted the words of the resolution, the honorable and learned gentleman went on to remark that the question was not whether they agreed with the arbitrators, nor whether, if they had been placed in their position, they would have come to the same conclusion as the arbitrators had done; it was not even whether they might not think that, in many of those matters, the arbitrators had, in fact, displayed what the right honorable gentleman characterized by the terms of his motion; but the question was whether it was

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wise, whether it was dignified, whether it could lead to any good result for the British House of Commons to pass with regard to an arbitration by which they were bound, which they had thanked the arbitrators for undertaking, and which they were to pay them for having undertaken, a resolution which no man in his senses, and who was not arguing to defend a thesis, would deny to be a direct and very heavy vote of censure upon those who were the objects of it. Did the house seriously wish to put an end to all the good which had been, or might be, done by that arbitration? ("Oh!") He was surprised that any one should deny that immense good had been done by it, although in this world there might be no good that was wholly unmixed. The question was whether Parliament was not, on the whole, satisfied with the arbitration having been undertaken, and with the grave disputes between this country and America having been pacifically and satisfactorily settled by it. (Hear, hear.) No doubt, the house was entitled to an avowal from the government of what they held to, and what they did not hold. [Mr. Horsman. And what they will do.] He hoped his right honorable friend would have a little patience with him, as they had patience with him the other night. (A laugh.) It was idle to talk of England altering her laws at the dictation of foreign powers. England would remain true to herself, they might depend upon it. The honor and glory of England were as dear to others as it was to the honorable and learned member, (Mr. Harcourt.) But England was a member of the family of nations, and must be bound by those principles of conduct which civilized states had agreed among each other to adopt. Though it was true that, as between sovereign state and sovereign state there was no power to impose a duty or enforce a law, and, therefore, when they spoke of international duties and international law they used words that were only imperfectly applicable to the subject-matter, still, if the municipal law of any particular nation was such as to render it inadequate to the performance of the duties of a neutral when war broke out, belligerent powers, he did not say had the right to, but, as a matter of fact, would complain, and call upon it to make its municipal law adequate for that purpose. The lord chief justice laid it down distinctly that the duties of a neutral government involved three things: First, that the law of the neutral should be sufficient to enable the executive to prevent breaches of its duties as a neutral; secondly, that where the application of its law was called for, it should be put in force honestly; and, thirdly, that all proper and legitimate means should be used to detect any intended violation of that law. The rule so properly laid down by the lord chief justice was that, where the municipal law of a neutral was insufficient for the discharge of its duties, the neutral might fairly be called upon to alter it. It must either comply with this reasonable, and he might almost say Christian, duty, or run the risk of war. Thus much for his honorable and learned friend's heated appeal to the privileges of the House of Commons—privileges which nobody respected more than himself when appealed to in the proper way. As far as the mere arbitration was concerned, the best course was to hold our tongue, (hear, hear, and murmurs,) to pay the money, since it could not be helped, and have done with it. Arbitrators were not judges or legislators. He admitted that if they were ordinary judges, and if this was a suit between party and party, the *rationes decidendi* would be binding; but they had no authority beyond that given them by the treaty of deciding this particular point, according to the rules and to international law, and as far as they had gone beyond this, we were not bound by their decision. It might be that reasons embodied in the award by persons of such distinction by way of recital, however in excess of their powers, and however little binding, might lead to a state of things calling on the part of either government for some distinct declaration of opinion, how far they considered themselves bound and how far not. (Opposition cheers.) He was not conscious that in saying this he had gone an inch beyond his right honorable friend, ("hear, hear," from Mr. Forster,) who intended to say as much, and if he had not done so had been misunderstood. (A laugh.) The observations of some honorable members had tended to convey the assumption that we should have been better without the rules, and that they imposed new, unheard-of, or disadvantageous obligations on neutrals. Now, with the exception of one rather doubtful point, they were only new to this extent, that the character of wars and the relations between states having altered since the last great war, circumstances had necessitated a new statement of principles as old as the relations of civilized nations. The American commissioners were anxious for the laying down of some new rules of international law, and, after much discussion, the British commissioners were empowered to agree to those rules, on the footing that they should be binding for the future, and that, as between the United States and ourselves, our conduct should be judged as if they had been binding at the time of the depredations of these vessels. The first rule required a neutral to exercise due diligence in preventing the fitting out, arming, or equipping within its jurisdiction of any vessel which there was reasonable ground for believing was intended to cruise or carry on war against a power with which it was at peace; as also in preventing the departure of such vessel, adapted wholly or partly within its jurisdiction for warlike purposes. Now, this, excepting the last portion of it, was as old as international law itself. From the earliest times the sending forth of an armed ship had been held to be the sending forth of an ex-

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pedition, and this being an obvious breach of neutrality, "due diligence" was required to prevent it. Objection had been taken to that phrase, but in these matters such general expressions as "reasonable notice," "proper care," and "due diligence" were customary and necessary terms which could not be further defined, but which no fair-minded man would have any difficulty in understanding. In the administration of the law the construction of them was always left to a jury, and it might fairly be left to five distinguished men like the Geneva arbitrators. He denied that the doctrine as to due diligence was new or oppressive in the slightest degree. The second part of the first rule had occasioned some dispute. It was to the effect that the neutral was to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war against a belligerent, such vessel having been adapted, in whole or in part, for warlike purposes. What had given rise to that provision? The foreign-enlistment act of 1819 was found not to meet such a case. The court of exchequer held that under the act a fully armed vessel might be seized, but they were divided in opinion as to whether the act applied to the case of a partially armed ship. The rule was meant to meet that case, and was not a new principle of international law. And how was it oppressive? Why, in 1870 a further foreign-enlistment act was passed unanimously, which went far beyond the rule that was now said to be new and oppressive. Certainly it was new, for the treaty was entered into in 1871, and the act to which he referred was passed in the previous year. But it might be said that its provisions need not be enforced. He could not concur in that view, for he held that, a law existing empowering a government to prevent breaches of neutrality, a foreign government would have just cause of complaint if that law were not enforced. (Hear, hear.) So much for the first rule. The second said that a neutral should not permit either belligerent to make use of its ports as a base of operations. Was that a new rule? It was as old as the oldest international writer with whom he was acquainted. Was it consistent with amity that a neutral power should allow itself to be made a base of operations against one or other of two belligerents? Surely not. And then came Rule 3, which simply amounted to this—that having agreed to two very excellent rules, due diligence should be observed to carry them into full effect. Was that an oppressive rule, as it had been called by his honorable and learned friend the member for Oxford? (Mr. Harcourt expressed dissent.) Well, if his honorable and learned friend did not call the rule oppressive, it certainly did not receive at his hands any great garlands of praise. He certainly said that the sooner the rules were got rid of the better, (hear, hear,) and he added that in a great European war the rules would be turned against ourselves.

Mr. HARCOURT. My honorable and learned friend is mistaken. He applies to the rules the observations I made in reference to the doctrines of the award. (Hear, hear.)

The ATTORNEY-GENERAL. If his honorable and learned friend denied that he said we should be bound by the rules in case of war, his (the attorney-general's) recollection was at fault. Those who understood his honorable and learned friend as he did should read the next sentence of the treaty, which expressly provided that the rules should be binding only as between the United States and Great Britain; and that with respect to any other nation which did not accept them, they should be as though they did not exist. (Hear, hear.) It should be remembered that the rules were much more likely to be of benefit to England than to any other nation. It seemed to have been forgotten that the parts in the drama as between ourselves and the United States were changed. Formerly the United States was the great neutral. England was the great belligerent. That was not so now, and if the rules were oppressive they would be more oppressive to the United States in time to come than to us. He gave the United States credit for an honorable observance and discharge of their international obligations, and he believed that, were we belligerents, there would be no disinclination on the part of the United States, being neutral, to be bound by the rules which they had imposed upon themselves. (Hear.) Now, as to the interpretation of the rules, in his opinion the arbitrators took an erroneous view. What they were asked to decide was whether there was liability with respect to six or seven definite cases placed before them, and, if so, to what extent. Having done that, their duty was discharged. But that was not the view which they took; and here, he must say, he differed very respectfully from the opinion said—he did not know whether correctly—to have been expressed by his right honorable friend the chancellor of the exchequer, to the effect that it would have been better if the lord chief justice had not delivered any judgment at all. If the other arbitrators had not delivered judgments he should have been of that opinion. But they not only did so, but some of the judgments were delivered before argument, and at all events the judgment of the lord chief justice had the advantage of being delivered after argument and full consideration of the facts of the case. He could not help rejoicing that that judgment was delivered. (Hear, hear.) It would have been a source of regret had the other judgments remained unanswered, and he could not help saying that the judgment of the lord chief justice was worthy of the occasion, and—he could use no higher language—worthy also of himself. (Cheers.) It was very desirable that our case and our view should be stated, not by

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our counsel, not by the person to whom our case was committed, but by an arbitrator in the discharge of an important and impartial duty. There was a good deal in the judgments which he agreed in thinking might be discarded, and as far as the recitals were concerned, there were some which he thought untenable, though he could not admit they had all been dealt with in perfect fairness. With regard to the question of due diligence, the mere expression of opinion on the part of the arbitrators as to the mode in which the damages were to be assessed, in default of due diligence being exercised, was erroneously taken to be the arbitrators' interpretation of the recital. The expression of opinion assumed due diligence, and did not in any way attempt to interpret it, and they then expressed their opinions in reference to the mode in which damages were to be assessed. He confessed himself unable to understand the meaning of the word "exact" as applied to the proportion of injury likely to be sustained. A man was more to blame if by leaving open a door he knew he would be causing another man's death than he would be if his neglect was not likely to result in more than the causing a man to sneeze. The determination of the exact amount of culpability was, however, a matter of considerable difficulty and delicacy. It would be unfair altogether to measure the blameworthiness in proportion to the consequences of events which could not be foreseen, and if that was the interpretation to be put upon the recital, he could only characterize it as untenable. (Hear.) A ship built *bona fide* in a neutral country might afterward be commissioned by a belligerent power, but the neutral could not therefore be held responsible for the damage done; the responsibility would be in proportion to the negligence by which a neutral power permitted a ship so built within its borders to escape for the service of a belligerent power. Mr. Adams signed the recitals, but he afterward, in a separate judgment, expressly denied that he would allow the principle which the right honorable gentleman (Mr. Hardy) supposed him to be contending for when he signed the recitals to apply to the United States. Again, the recital applying to the obtaining of coal in neutral ports by belligerent ships had been incorrectly supposed to apply rigidly to all ships, whereas, as matter of fact, the arbitrators themselves decided the particular cases in accordance with the peculiar circumstances connected with them. We could not go to foreign nations and press upon their acceptance these rules, open to objection as they were. (Hear.) It would not be advisable to put these rules before foreign nations without some very distinct statement that we objected to these recitals, which were not binding, and many of which were perfectly indefensible. (Ironical cheers from the opposition.) That statement ought to explain the sense, and the only sense, in which we approve and put forward these rules, namely, the sense mentioned by his right honorable friend opposite. In his opinion, these rules should not be laid before foreign powers without a very distinct statement that beyond the extent which he had indicated, Her Majesty's government did not deem itself pledged by the interpretation put upon these rules by the arbitrators. Now, if the question were asked, what shall we do? his answer would be, nothing. He did not think this was a favorable time to open negotiations with the United States for the purpose of arriving at an understanding as to how much or how little of these glosses, interpretations, or comments they agreed with us in accepting or refusing. That nothing could be done with the foreign powers until the United States joined with us in urging them to accept these rules he was perfectly satisfied. (Hear.) It was our bounden duty, not of onrselves, to bring these rules under the notice of foreign powers, but to do so in conjunction with the United States. This was not a party question. It ought not to be a party question. Every member of the house, on whichever side he sat, ought to be as jealous with regard to the honor and character of this country as he was with regard to his own. He was quite certain that in what his right honorable friend had said he did not intend even to do so slight a thing as to embarrass the government. He was quite sure his right honorable friend did not intend to do a far more serious thing, namely, to expose this country to the ridicule and contempt of the civilized world as a people who paid, but grumbled because they had to pay. If all that his right honorable friend desired was to extract from the government a distinct explanation of what they agreed to, and of what they dissented from, with reference to these rules, he had abundantly obtained his object. If he desired more than that, his object was illegitimate and improper. (Hear, hear.)

Mr. DISRAELI. I have heard with much satisfaction from the attorney-general that Her Majesty's government are prepared to disavow the interpretation which has been put on the three new rules by the tribunal at Geneva, and that they undertake to make no representation to foreign powers without at the same time communicating to them the interpretation which they place upon them, that interpretation being contrary in every sense to the interpretation put on them by the tribunal at Geneva, in accordance, it must be admitted, with the description given of them by Her Majesty's government themselves, and by so eminent a person as the lord high chancellor of England, who took so conspicuous a part in these affairs. The house will, under these circumstances, I think, agree with me that the discussion in which we have been engaged this evening has proved of great advantage. (Hear.) The question is now placed in a much

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more satisfactory manner before the country, and many minds will in consequence be relieved from great anxiety by the declarations which have been made on the part of the government, and which I trust the prime minister himself will confirm, and so prevent an unnecessary division on a subject of transcendent importance, with regard to which we should show ourselves desirous to co-operate with the government of the day as far as we can, and that there is on the part of the House of Commons a determination to have a clear understanding of our engagements, and not to sanction interpretations of the new rules which might imperil the future fortunes of this country in a manner which by some persons has not, perhaps, been sufficiently considered. (Hear, hear.) I may remind the house that one of the great recommendations of these rules which was made to us by Sir Roundell Palmer was, that they were very precise in their character. Though he himself doubted as to the expediency of some portions of them, yet he said he preferred them to the arrangement which had been made between Lord Stanley and Mr. Reverdy Johnson, because they were precise, adding that we knew what our engagements were, and that we might, therefore, be easy as to the future. But, unless the House of Commons had interfered as it has done to-night, and unless we had received a declaration such as we have received from some members of the government, and which I have every hope will be sanctioned by the prime minister, it is quite clear we could not feel that easiness with regard to the future, so far as these new introductions into international law are concerned, which the lord chancellor of England seemed to contemplate. Now, I look upon this question entirely as to the future. I heard with great regret that part of the speech of the attorney-general where he appeared to argue as if there was a proposal emanating from this side of the house to break away from the engagements of the treaty of Washington, and to reject the verdict of the arbitrators, and as if there was some feeling of discontent and disappointment in consequence of the decision at Geneva, which led us to appeal to the House of Commons to pronounce an opinion as to the interpretation which ought to be put on the new rules.

The ATTORNEY-GENERAL. I did not allude to the right honorable gentleman, the member for the University of Oxford.

Mr. DISRAELI. I am very glad that you did not, but on whatever side of the house we may sit I feel called upon to vindicate ourselves against such an imputation. I regret much that has passed on this subject, but I am now willing to believe that the government are at length about to act with decision and with prudence—qualities the exercise of which is absolutely necessary in the present situation of affairs. I do not grudge the verdict which has been given against us. I am willing to believe that the general course of this transaction, if it tends to maintain a thorough friendship between the two countries, is not to be deprecated; but I am convinced that, unless we arrive at some precise meaning as to the engagements into which we have entered by the intended introduction of the three new rules into the international law of Europe, we shall find ourselves involved in very great difficulties, (hear, hear,) and that those who come after us will repent the course which we have taken and sanctioned. But it is only the future that I now wish to consider. I cannot help feeling that Her Majesty's government have not given this matter the attention which its importance and instant character appear to me to demand. Why, at the commencement of the session, the prime minister was under the impression that the government had already communicated the new rules to the powers of Europe, but we afterward learned (Mr. Gladstone: "The same night") that that statement was made inadvertently. The same night—but what does it matter whether the correction was made the same night or a month after? (Hear, hear.) It is, at all events, quite evident that the matter was not considered of the gravity and importance which it ought to have been, and that the prime minister was acting in actual ignorance of whether communication had been made to foreign powers on the subject or not. (Hear, hear.) Then another member of the ministry informed us that if a communication were made to foreign powers, it would be made without note or comment. That is the whole question before us. We are of opinion, and I think the House of Commons generally concurs in that opinion, that the communication should not be made without note or comment, (hear, hear:) and, if I understand the attorney-general aright, that is now also the opinion of the government. If that be so, if the government are convinced that in fulfilling the duty which they have engaged to perform under the treaty of communicating those rules to foreign powers they must accompany the communication with the precise interpretation which they put upon them, if at the same time they take steps to arrive at an understanding with the United States with respect to them, then this debate will, I think, not have been in vain, and the house will feel that it has done its duty in seriously calling the attention of the government to the subject. (Hear, hear.) There is one point, I may add, which was mentioned by the right honorable gentleman the vice-president of the council, which I cannot help noticing. The right honorable gentleman on more than one occasion informed us that the last letter—I suppose he meant dispatch—which was sent to the United States had not been answered, and from some expressions which he used I would infer that until that answer arrives no further steps

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will be taken by the government to bring this anxious matter to a satisfactory conclusion. Now that is a course which I should say would be most unsatisfactory to the house. (Hear, hear.) It is, I think, the desire of the house that whether an answer has or has not been sent by the United States to the last dispatch of the government, means should be taken—and there are usual and obvious means when dispatches are not answered—to revive the memory of the United States on the subject. The verdict of the tribunal at Geneva has certainly not been one of a very mortifying complexion to the Government of the United States, and there is no reason why they should treat us otherwise than in a friendly spirit with respect to the interpretation to be put on the three new rules. I trust, therefore, that but a very little time will have elapsed before we shall have it communicated to the house that an understanding between the two countries has been arrived at in the matter. I am not clear myself that a joint communication is necessary under the provisions of the treaty of Washington. I doubt whether the attorney-general was warranted in his assertion on that point, unless he has the treaty in his hand. (A laugh.) It states that "the high contracting parties agree to observe those rules between themselves in future, and to bring them to the knowledge of other maritime powers and invite them to accede to them." There is no mention there of joint action. I do not say that it is not desirable there should be joint communications. I merely wish to point out what are our engagements under the treaty in the event of there being delay on the part of the United States, and what is the freedom of action of which we may avail ourselves. If the United States should not act with us with that unanimity which I think we are entitled to expect, it seems to me that it is in the power of the government of the United Kingdom to determine what is the interpretation which they place on the three new rules, on their own responsibility, and by their sole communication to make that interpretation known to foreign powers. I trust it may not be necessary to have recourse to such a step, and that there may be a joint communication; but there can be no joint communication unless the government give more earnest attention to a matter of great public interest than it seems to me they have done hitherto. At all events, the sooner we arrive at a precise understanding of the interpretation to be put on these rules, the better for the general interests of Europe and the maintenance of peace. I cannot agree with one honorable gentleman who has addressed the house that this verdict of the Geneva tribunal is a matter of indifference. On the contrary it is a verdict which will be appealed to in the future as an authority on the law of nations. On what does the law of nations rest, if not upon authorities of this kind? I admit with the attorney-general that the law of nations depends upon treaties; but the attorney-general will agree with me that the greater portion of the law of nations does not depend upon treaties. It would be well if it did, but it would not be difficult to prove that much the larger portion of the law of nations depends on the authority of individuals—writers who have studied the subject, and who have become recognized in the countries in which they have flourished as great authorities on jurisprudence. But the high authority even of distinguished judges and renowned philosophers, writing on these matters, will, after all, not be regarded with the same veneration and as having the same corporate authority as the decisions of a high tribunal which had been appointed by the greatest powers in Europe to decide this question. We are now familiar with this tribunal of Geneva, but ten or twenty years hence this country may be involved in war, and questions similar to this may arise, and when they are being debated in this house and in other similar chambers, depend upon it the authority of the tribunal at Geneva will be appealed to, (hear, hear,) and its decisions will be looked upon as forming part of the law of nations. Therefore it is of the utmost importance that time should not be lost. This is not only a great but a pressing subject. If this matter should be negligently left undecided; if we fail to come to some understanding with the United States as to the general interpretation to be put upon these new rules, and if we fail to take the precaution of communicating them, as we are bound by the treaty of Washington to do, to the powers of Europe, accompanied by the precise interpretation of the British government upon them, we may find ourselves involved in disaster. I trust, therefore, we shall hear from the highest authority that the best exertions of the government will now be used to bring this matter to a happy conclusion. (Cheers.)

Mr. GLADSTONE. The first thing the right honorable gentleman will hear, from what he is pleased to term the highest authority, is that there is no change of view on the part of the government with respect to the question connected with these rules, and that it is a matter which has never been neglected. The right honorable gentleman and the honorable and learned member for Oxford have obligingly reminded me of a lapse of memory, on my part, on the first night of the session, on account of which I have already apologized to the house. I am, however, not indisposed to apologize to the house again, or any number of times the house may please. Perhaps the right honorable gentleman is not conscious what a lapse of memory can be, but I know of a case of a gentleman who, having been chancellor of the exchequer, has charged as a high crime and misdemeanor the conclusion of a pecuniary arrangement which he him-

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self had initiated. (Laughter.) It would be invidious to enter into particulars, but there are members of the house old enough to remember the circumstances, which attracted some attention at the time, and which I presume the right honorable gentleman has not forgotten. I deeply regret the lapse of which I was guilty, but it happened that I at the time confounded what I had read in dispatches with regard to informal communications with actual statements upon the rules, and I explained the same evening the error into which I had fallen. (Hear, hear.) The right honorable gentlemen has found fault with a remark of my right honorable friend the vice-president, who has stated that the last communication upon this subject had been made by Great Britain, and that therefore it rested with the United States to take the next step. The right honorable gentleman thinks it most important that the subject should be resumed at once, lest by the outbreak of war we should become involved in difficulty. If, unhappily, a war should arise in Europe, and we, unhappily, should be involved in it, it would have nothing to do with this question. The question relates to an engagement between this country and the United States, and the nations of Europe have no concern whatever in it, nor does it enter into our relations with them. We are very far from thinking this is a subject in which there ought to be indefinite delay; but what is our position? Here is a complicated instrument, the treaty of Washington, embracing the settlement of a large number of international questions. We began to deal with the subject now under consideration almost immediately after the conclusion of the treaty; but we were interrupted in that correspondence by the occurrence of a controversy on the subject of the indirect claims. That reminded us that, although there are great difficulties between the two powers still remaining unexecuted, it may be wiser to look first to the execution of those conditions, and postpone until after they have been completed a proceeding such as that connected with the three rules, which concern the joint action of the two powers toward the rest of the maritime powers of the world. I wish to state this plainly, because I should deceive you if I gave reason to believe that we contemplated immediately pressing the United States to resume the correspondence. We think it better, especially now that we are approaching, as I hope, the satisfactory interpretation of the whole of those great transactions under the direct clauses of the treaty, to wait until those matters are concluded before we resume the subject of the three rules. The right honorable gentleman has also stated that he does not think we are in any way bound by the language of the treaty to make a joint communication of these rules. Whether we are bound or not, I should anticipate very little advantage from a separate communication. (Hear.) And I think a moment's reflection will show the right honorable gentleman how little chance there could by any possibility be of procuring acceptance of these rules in case the two powers originally accepting them were unable to agree in submitting them. A joint communication was evidently contemplated by the treaty, and a joint communication would alone afford reasonable promise of that attainment of the objects of the treaty. Now, with reference to the debate, I may be allowed to commence my remarks by thanking the right honorable gentleman (Mr. Hardy) for the spirit in which he introduced this question to the notice of the house. I must say it entirely fulfilled the purpose which the right honorable gentleman had in view. I am also glad that the right honorable gentleman found time in the midst of his closely-argued statement to do justice to the action of Lord Russell in the difficult transactions with which he had to deal when he was foreign minister. (Hear, hear.) There is no man who has a keener sense of the national honor than Lord Russell, and no one who, with that keen sense of the national honor, knows better how to fulfill all the international obligations of this country. (Hear, hear.) I am also obliged to the right honorable gentleman for this, that in the first place he most usefully limited this discussion, and kept it within its proper bounds, by entirely passing by the individual opinions and statements of the arbitrators. If we were to enter into those statements, there would be no possibility of setting limits to this debate. The right honorable gentleman recognized as the proper subject of his motion the joint statements of the arbitrators. I must also refer with satisfaction to the view taken by the right honorable gentleman of the three rules themselves, because he said had it not been for the joint statements of the arbitrators and the color they gave to the rules he would not have made the motion and invited the attention of the house to the subject. With that statement I am quite content. There are, however, one or two other statements of the right honorable gentleman which appear to me to be hardly consistent. I greatly doubt whether he was perfectly correct in saying that the obligation to enforce international law could be limited according to the institutions of each country. And I here would venture to question whether it can be laid down as a universal proposition that the belligerent is bound to be content with the judgment of the neutral court.

Mr. HARDY. What I said was this, that there was an absolute right to enforce international law, but no right to enforce municipal law.

Mr. GLADSTONE. Well, then, I am quite satisfied with that statement. Now, while there are conclusive reasons which must lead the government to object to the adoption of this address, there is no substantial difference between the right honorable gentle

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man and ourselves as regards the practical object. From one point of view I am very sorry that this discussion has been raised, because, if I could, I would wish that the members of the government should keep a silence, which is not binding on others, with respect to the declarations of the arbitrators. (Hear, hear.) But, while I regret that we have been obliged to open our mouths, I am as far as possible from complaining that a subject so legitimate and proper for discussion should have been raised by the right honorable gentleman. I concur with what fell from my right honorable friend near me, (Mr. W. E. Forster,) and with the attorney-general in his more detailed statement with regard to some of the propositions of the arbitrators. They pass entirely beyond the limits and bounds of my understanding; they belong to a higher region of law, into which I am not able to follow; but after the full discussion which my honorable and learned friend has entered into with regard to those propositions, I do not think it necessary for me to dwell upon them in detail, or even to refer to them particularly. But I would wish to point out where it is that I part company from the right honorable gentleman opposite. After the very fair account that he has given of the three rules I think he has done some injustice to his own admission by speaking of the recitals of the arbitrators as their interpretation of these three rules. I contend that they are not an interpretation of the three rules. I do not think it possible, for instance, to say with reference to a portion of the recitals in the Alabama case, that because the measures taken were unsuccessful they did not satisfy the conditions of "due diligence." (Hear, hear.) It surely is not possible to contend that this is an interpretation of the term "due diligence." To hold and apply it as a principle that in the case of a government you can never allow "due diligence" to be used except where the means have been completely successful may be a corollary or deduction; but call it what you like, it is no interpretation of the rule, because it has no just or fair reference to the meaning of the words contained in the rule. (Hear, hear.) When in construing the words a perfectly arbitrary consequence is sought to be drawn, and an enlargement made which can in no way be brought within the meaning of the words, we do injustice to the document in treating the recitals as an interpretation. But an admission has been made by my right honorable friend near me, and more fully by the attorney-general, that though the recitals of the arbitrators are no interpretation of the three rules, yet we admit that they are important facts for the legitimate consideration of the House. It is impossible to deny that a certain relation is established between them and the three rules, unless something can be said to the contrary. Now, I think that is really the gist of the motion of the right honorable gentleman. I will now state very briefly why we cannot adopt the motion. In the first place, I think that the effect of the motion treating the recitals as an interpretation of the rules is not perfectly just to the rules themselves. My honorable and learned friend, the member for Oxford, (Mr. Vernon Harcourt,) is perfectly ready to meet me upon that ground, because, differing entirely from the right honorable gentleman opposite, and differing entirely from the terms of the motion which he supports, for the motion asks that the rules may be disconnected from the instructions attached to them, he demands that the rules may be canceled altogether. The honorable and learned gentleman of course would say, "If the motion tends to disparage the rules, so much the better." I am sure the right honorable gentleman opposite, who sees the position in which we stand under the stipulations of the treaty, has no such object. I must also say that I greatly doubt, unless there were an imperative necessity—and I grant a necessity would arise if there were a difference of opinion in the House as to the course taken by the government—I say, I doubt whether, when the world might say that we were smarting under the decision which has been given, it would be a *nodus vindice dignus* if the House were to descend into the arena, and on the part of the people, in its representative character, should make complaints of this kind. The state of opinion abroad with respect to this question between America and ourselves has been by no means unequivocally in our favor, and I do think it is of great importance that we should take in uncomplaining silence the arbitration itself, and not have it said that we gave signs of mortification while we were performing the process of disbursement. (Hear, hear.) I am not going to make a verbal criticism on the motion of the right honorable gentleman. It is somewhat complex in the mode of drawing. The right honorable gentleman invites us to make a representation not only with respect to the interpretation of the three rules, but with regard to the other principles of international law adopted by the arbitrators. Now, I am sure, he will see that the question whether the other principles of international law adopted by the arbitrators, outside the three rules, are sound or not sound, is a matter having no connection whatever with the interpretation of the three rules. (Hear.) All of us desire that the two subjects should not be mixed up together. There is another objection, which is solid and of considerable weight. The words of the right honorable gentleman, as they stand, would call upon us to register a dissent from the whole of the principles recited by the arbitrators. It is not to be a dissent from certain principles of the arbitrators, but it is to be a dissent from the principles recited by the arbitrators. Now, if the House could adopt a motion of this kind, which I hope they will not, it would be a direction to the government, and for the fulfillment of that

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direction they would still have to depend on the government of the day. I take it for granted the right honorable gentleman would not desire to give that direction unless he saw something in the views and explanations of the government which was not satisfactory. There appears to have been some misunderstanding as to the terms used by my right honorable friend, the vice-president of the council, which were afterwards more fully and satisfactorily developed by my honorable and learned friend the attorney-general, and although I am going to point out an important distinction, I do not really think it can possibly be made the subject deliberately of any difference of opinion between the two sides of the house. What was said by the attorney-general was this: He has admitted that the gloss, as he called it, on the rules will, though illegitimately and improperly, be held to stand in some relation to the rules, and to be of more or less authority, perhaps, in the determination of similar cases if they arise; and that, in consequence, although we hold these recitals of no authority, it is our duty to ascertain that when we proceed, as we trust we shall proceed, in conjunction with the United States, to recommend the three rules to the acceptance of the other powers, we shall recommend them totally disencumbered of these recitals—that it is our duty to place them outside of the rules, to destroy all connection between them, and to take care that there is no mistake or ambiguity whatever in that respect. That, I think, is in substance what he said. The criticism of the right honorable gentleman, the member for Bucks, took a somewhat wider sweep than the speech of the right honorable gentleman, the member for the University of Oxford, for he says he understands the government to be engaged in recommending the rules to the maritime powers to put on them the most decided and precise interpretation. Negatively, I agree with the right honorable gentleman—we recognize it as our duty to take care that, as far as we are concerned, these *dicta* of the arbitrators—these recitals, the *rationes decidendi*, are not allowed to enter into the question; but if he means that we are to place a substantive interpretation on the three rules—a comment to be framed on the text—then I say, first, that it is by no means implied in the motion; and, secondly, I think such a course would be open to considerable objection. How are you to offer along with rules which are to form part of international law a comment as to the light in which they are to be regarded? That comment must be of equal authority with the rules themselves if it is to be of any value at all; and if it is to be of equal value with the rules themselves, it ought to constitute a portion of the rules. That would be traveling back to where we set out from, and we should have at last to aim at an entire reconstruction of the rules. (Hear.) With regard to the three rules I refer for their exposition to the argument of my honorable and learned friend the attorney-general. With one single exception, I am aware of no ambiguity attaching to the rules. The rules passed through the ordeal of the Geneva trial, and stand well. As truly stated by the honorable and learned member for the the city of Oxford, there was a point which arose immediately after the conclusion of the treaty, with regard to the application of the second rule. It appears that Mr. Fish was of opinion that some supplemental explanation between the two governments would be requisite, and, as far as that goes, I admit it will be necessary that some substantive step probably should be taken. That has reference merely to an isolated point, and in no way enters into what has been in dispute to-night. As to the dispute to-night, I do not understand that the right honorable gentleman the member for Oxford University asks us to lay down a number of substantive doctrines of international law over and above what are involved in the three rules. To such an engagement, as I understand it, this motion certainly does not bind us. It would be totally impossible to determine these matters by abstract general rules. If that be so, I trust I am correct in my statement that, so far as I am aware, there is not any substantive difference of opinion between us. (Hear, hear.) I hope I have clearly, if imperfectly, restated what the attorney-general gave as his own opinion—namely, that you have a right to expect that we should take care that our recommendation of the three rules does not carry with it, in whole or in part, in substance or even in shadow, so far as we are concerned, the recitals of the arbitrators as being of any authority in this matter; and I hope the right honorable gentleman the member for Bucks will see that I wish to give the proper interpretation to the words he used as to precision of language. I may state that I heard the speech of the honorable and learned member for the city of Oxford with very different sentiments from those with which I listened to the speeches of the right honorable gentleman the member for the University, my right honorable friend the member for Devonshire, and my honorable friend the member for Orkney. I feel that the concordant expression of opinion generally manifested in the House will tend to strengthen the hands of the government. The object sought will thus be better attained than by the adoption of a motion which would rather have a contrary effect, and appears to me open to grave objection. (Cheers.)

Mr. HARDY, after the statement of the right honorable gentleman, and the distinct disavowal by the right honorable gentleman and the attorney-general of the recitals of the arbitrators, would, with the permission of the House, withdraw his motion. (Hear, hear.)

The motion was by leave withdrawn.

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No. 156.

Mr. Fish to General Schenck.

No. 352.] DEPARTMENT OF STATE,
Washington, March 27, 1873.

SIR: Referring to the XXXIII Article of the Treaty of Washington, by which it is provided that Articles XVIII to XXV inclusive, and Article XXX of the treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the imperial parliament of Great Britain, by the parliament of Canada, and by the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other, and that such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation, I have to say that the Congress of the United States has framed the laws on our side required to carry such provisions into operation, to take effect on the 1st day of July next. A copy of the * act is inclosed. It is understood that the necessary laws have also been passed by the imperial parliament of Great Britain, by the parliament of Canada, and by the legislature of Prince Edward's Island, so that the articles referred to will take effect on the 1st day of July next.

You will therefore transmit to Lord Granville a copy of the act of Congress of the United States, and in a personal interview you may suggest to him for consideration whether Sir Edward Thornton should not be authorized to excute a protocol with me reciting the passage of the necessary legislation by the several legislative bodies, and that the articles referred to will take effect on the 1st of July next.

I am, &c.,

HAMILTON FISH.

No. 157.

General Schenck to Mr. Fish.

No. 370.] LEGATION OF THE UNITED STATES,
London, April 5, 1873. (Received April 16.)

SIR: The Royal Geographical Society have sent to me the gold medal awarded by them to Mr. H. M. Stanley, for his adventurous journey into the interior of Africa, and the succor given by him to Dr. Livingstone. They request me to transmit the medal to Mr. Stanley. I forward it to you, with the letter to me from Sir Henry Rawlinson, the president of the society, which accompanied it.

I was not able to give to Sir Henry, with any certainty, Mr. Stanley's address in the United States; but I promised to send the medal to the State Department, and assured him that it would give you pleasure to take care that such honorable testimony to the energy and perseverance of an American citizen should be safely conveyed to him.

I have, &c.,

ROBT. C. SCHENCK.

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* For the act see United States Statutes at Large, vol. 17, p. 482.

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[Inclosure No. 1.]

Sir Henry Rawlinson to General Schenck.

ROYAL GEOGRAPHICAL SOCIETY,
1 *Saville Row, Burlington Gardens, W., April* 4, 1873.

EXCELLENCY: I have been requested by the council of the Royal Geographical Society of London to hand to you, for transmission to the United States, the gold medal which was awarded by them at a special meeting, held during last autumn, to Mr. H. M. Stanley, for the important service rendered by him to the cause of geographical science in his adventurous journey to Lake Tanganiyaka, whereby he was enabled to afford succor to Dr. Livingstone in his extreme distress, and to bring to Europe the journals and papers of the great African traveler.

It was a matter of much regret to the council that under the regulations of the society they were unable to present the medal to Mr. Stanley in person, before he left England in last November, but they are happy to think that the testimony which the award of the council is intended to offer to Mr. Stanley's energy and perseverance will be enhanced in value by its being transmitted to its destination through the representative of the illustrious nation to which that gentleman belongs.

I have the honor to be, excellency, your faithful servant,

H. RAWLINSON.
President of the Royal Geographical Society of London.

His Excellency General SCHENCK,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure No. 2.]

General Schenck to Sir Henry Rawlinson.

LEGATION OF THE UNITED STATES,
London, April 5, 1873.

MY DEAR SIR HENRY: Your letter of yesterday, with the gold medal awarded by the Royal Geographical Society to Mr. H. M. Stanley, was duly received.

I have to-day transmitted the medal to Mr. Fish, Secretary of State, at Washington, who, I doubt not, will take care that such honorable testimony to the energy and perseverance of an American citizen shall be safely and without delay conveyed to him.

I am, dear sir, very respectfully, your most obedient servant,

ROBT. C. SCHENCK.

Major-General Sir HENRY CRESWICKE RAWLINSON, K. C. B., F. R. S., &c.,
President of the Royal Geographical Society, 1 Saville Row, Burlington Gardens, W.

No. 158.

General Schenck to Mr. Fish.

No. 390.] LEGATION OF THE UNITED STATES,
London, April 26, 1873. (Received May 9.)

SIR: On the 8th of this month, Earl Granville being out of town, I had an interview at the foreign office with Lord Enfield, one of the under secretaries of state for foreign affairs, and, among other matters, I brought to his attention the subject of your No. 345, the oppressive fines exacted in Cuba of vessels trading to that island.

I placed in his lordship's hands one of the printed copies of your instructions to General Sickles, with the inclosed memorandum for the minister for foreign affairs at Madrid, and I explained that it was the desire of the United States that Her Majesty's government, having interests in the matter identical with our own and those of other mar-

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itime powers trading to Cuban ports, should give such instructions to their minister at Madrid as would enable him to co-operate with General Sickles in support of such change in the tariff laws and regulations of Cuba as might relieve vessels from the burdensome and unreasonable exactions to which they are now subjected.

Lord Enfield, although in charge during the absence of the principal secretary of state, and although Lord Granville had referred me to him for any communication I might wish to make while he was away, gave no other reply than to promise that he would bring the matter to the notice of his chief, and would forward the copies of papers I delivered to him. He did not doubt but that what I communicated would be received with interest, and meet with prompt attention.

Yesterday I met Lord Granville himself, by appointment. In our conversation I brought up this subject. He expressed views entirely concurrent with those I presented to him. He said he regretted to have to state that the complaints made of similar treatment of British vessels trading to Cuba had been numerous, and constant instructions had been addressed to Mr. Layard, Her Majesty's minister at Madrid, to make earnest representations on the subject. He thought it was desirable that the two countries should, as suggested, either by identical or simultaneous representations, endeavor to obtain a complete reform of the grievances. Simultaneous action, though separate, he believed would probably be the better. The only question in his mind was whether this particular moment was the most opportune for the purpose.

He thought not, because of the immediately existing political trouble in Spain; but would keep the subject in mind, with a disposition and readiness for concurrent influence to be exerted at any more auspicious time.

I have, &c.,

ROBT. C. SCHENCK.

No. 159.

General Schenck to Mr. Fish.

No. 392.] LEGATION OF THE UNITED STATES,
London, April 26, 1873. (Received May 14.)

SIR: I yesterday handed to Lord Granville a copy of the act of Congress for carrying into effect certain provisions of the treaty of Washington approved March 1, 1873, transmitted to me in your No. 352. At the same time I suggested to him, in accordance with your instructions, that Sir Edward Thornton might be authorized to execute with you a protocol reciting the passage of the necessary several acts of legislation by the Imperial Parliament of Great Britain, the Parliament of the Dominion of Canada, and the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other, and declaring that those articles of the treaty would take effect on the 1st of July next.

His lordship quite agreed that something should be done giving official recognition of the fact that the required legislation was all complete. He said that instructions on the subject had just been given, and showed me the draught of what he had written to Sir Edward Thornton to propose to you. His idea was, after a proper understanding that the necessary

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acts had been passed, to notify the colonial authorities of the taking effect of the articles of the treaty in question. We agreed that it was only a difference of form to be used for accomplishing the same object. I said that your plan seemed to me the clearest and simplest; that is, to unite in a protocol at Washington, reciting or referring to the several acts of legislation, and announcing a date at and from which the articles would come into operation and the ten years stipulated for in the treaty begin. He seemed to be impressed with a thought that this might be the best shape to be given to the procedure, and said he would consider further of his instructions to Sir Edward Thornton.

I have, &c.,

ROBT. C. SCHENCK.

No. 160.

General Schenck to Mr. Fish.

No. 395.] LEGATION OF THE UNITED STATES,
London, April 29, 1873. (Received May 14.)

SIR: Referring to my No. 392, I have to report that Lord Granville has to-day informed me that he has considered and is prepared to assent to the suggestion that a protocol shall be signed at Washington, reciting the several acts of legislation which have been passed to carry out the provisions of articles XVIII to XXV, and article XXX of the treaty of Washington, and declaring the day for the taking effect of those articles. Sir Edward Thornton will be instructed to join you in such a protocol. Lord Dufferin, the governor-general of Canada, will also be directed to issue, as soon as he shall be notified of the execution of the protocol, a proclamation announcing the fact and the date at which the articles go into operation.

I have, &c.,

ROB'T. C. SCHENCK.

No. 161.

General Schenck to Mr. Fish.

No. 399.] LEGATION OF THE UNITED STATES,
London, May 1, 1873. (Received May 14.)

SIR: In conformity with the instructions contained in your No. 362, I have had some conversation with Earl Granville in regard to resuming the attempt to agree on the terms of a consular convention between our two governments.

The way appears to me to be now cleared for a satisfactory consideration of the subject, and I believe nothing has been lost by delay. His lordship, although giving no decided expression of opinion, but intimating a necessity he would be under of some preliminary examinations and study of the questions involved, appeared to sincerely concur in the view that it is desirable and will be wise to establish rules defining and regulating the powers and duties of consuls of one country within the territory of the other.

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I recapitulated briefly the history and progressive steps of the negotiation up to the time, in September, 1870, when reason was given to expect that a draft of a convention or counter-project to that submitted by Mr. Motley would be brought forward by Her Majesty's government. Lord Granville promised to give the subject attention again at his earliest convenience, and after he should have time for conference with the board of trade.

No discussion was held, in this conversation, on any particular provision or principle to be embodied in a proposed convention; but I took occasion, as instructed last year in your No. 9, to suggest that among articles to be adopted there ought to be one providing for the administration of oaths by the consuls of one country residing in the other.

His lordship made a note of this point.

I have, &c.,

ROBT. C. SCHENCK.

No. 162.

General Schenck to Mr. Fish.

No. 401.] LEGATION OF THE UNITED STATES,
London, May 3, 1873. (Received May 15.)

SIR: Last evening, in the House of Commons, Lord George Hamilton, a conservative member for the county of Middlesex, proposed a resolution censuring the government for their course in the arbitration of the San Juan boundary dispute. Quite a long discussion ensued. No vote was taken, however, and the subject was dropped. As a part of the history of this question, I transmit herewith a report of the debate taken from The Times of to-day and prepared in the usual way for preservation.

You will not fail to notice what was said by Mr. Gladstone at the close. He virtually admitted the full strength of our case, and found nothing surprising in the decision arrived at by the Emperor of Germany.

I am, &c.,

ROBT. C. SCHENCK.

[Inclosure 1.]

[*Extract from The Times, Saturday, May* 3, 1873.]

HOUSE OF COMMONS, *Friday, May* 2.

The speaker took the chair at 4 o'clock.

THE SAN JUAN BOUNDARY.

Lord G. Hamilton then rose to call attention to the nature of the reference to the treaty of 1846, which, under the Washington treaty, was submitted, together with the northwest water boundary question, to the Emperor of Germany for decision, and to move the following resolution:

"That this house, while approving of the principle of arbitration, regrets that Her Majesty's government allowed upon that part of the Oregon treaty referred to the Emperor of Germany for decision a limited interpretation to be placed, which was fatal to the just claims of the British empire."

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The noble lord said his resolution was couched in strong terms—firstly, because he had grounds to justify such terms; and, secondly, because last night the prime minister attacked him for having closed the door of repentance to the chancellor of the exchequer. He admitted that attack was not altogether unjustifiable, and he was about to make the best reparation he could, by proposing a resolution which would open the door of repentance wide enough to admit the chancellor of the exchequer and all the cabinet. ("Hear, hear," and a laugh.) Disputes having arisen between this country and America relative to the boundary between British Columbia and the latter country, after considerable negotiation the treaty of Oregon was signed in 1846. That treaty contained an article to the effect that the boundary should be continued westward along the 49th parallel of north latitude to the middle of the channel which separated the channel from Vancouver's Island, and thence southerly through the middle of said channel and of Fuca's Strait to the Pacific Ocean: provided, however, that the navigation of the whole of said channel and straits south of the 49th parallel of north latitude should remain free and open to both parties. Very shortly it became evident that a dispute would arise as to which was the middle channel, there being three between Vancouver's Island and the continent. In 1853 Mr. Bancroft wrote to Mr. Buchanan that he had caused a traced copy of Wilkes's chart of the strait of Haro to be made, because it had been intimated to him that questions might arise with regard to the islands east of the strait, and he asked for authority to meet such a claim on the threshold by the assertion that the central channel of the strait of Haro was the main channel intended by the treaty. In 1859 Lord John Russell wrote to Lord Lyons, our representative at Washington, to the effect that it was the intention of the treaty to adopt the mid-channel of the straits as the line of demarkation, without any reference to islands the position, and indeed the very existence of which had scarcely, at that time, been accurately ascertained. Particular importance was attached at that time to one island of the group, San Juan, and Lord Russell, in his dispatch to Washington, stated the interests involved in its retention by the British Crown to be so important that no settlement would be accepted which did not reserve it to England. Lord Granville, speaking after we had lost the island, had declared its importance enormously overrated, but he believed Lord Russell's view was the accurate one. Lord Russell's proposal to refer the construction of the treaty to an arbitrator, who, if unable to ascertain the precise line intended, should lay down an equitable boundary, was not successful. In 1869 a similar proposal formed part of the Clarendon-Johnson convention, but the American Senate refused to ratify that convention. In 1871, when commissioners were sent over to Washington to arrange the Alabama claims, the question was revived, the three points at issue being whether the word "channel" in the treaty signified the whole space intervening between Vancouver's Island and the mainland; if not, what specific channel was intended, and whether the navigation of the whole intervening space was to be free to both parties, or only that specific channel down which the boundary-line might be drawn. The American commissioners proposed that an arbitrator should determine whether the line should be drawn through the Haro Channel or Rosario Strait, and to this the British commissioners agreed; but the proposal of the latter that the two other points should also be referred to arbitration was refused by the Americans, and was waived by the British commissioners. Thus, out of the three points in dispute, the Americans were allowed to place their own interpretation on two, and when the matter was narrowed to the Haro Channel and Rosario Strait, it was absolutely certain that the former would be adopted. But for this concession by Her Majesty's government, the odds would have been two to one in our favor. They allowed the only two tenable points of the treaty that were in dispute to be decided against them, and they then referred the one untenable point to arbitration. He maintained that it was not arbitration in the proper sense of the term to refer points which must be given against them, and the whole transaction exhibited on the part of our government an extraordinary incapacity for rightly conducting negotiations. He believed that the real cause of the loss we had sustained in this, as in other matters, was that Her Majesty's government had been determined from the first to have a treaty. The Americans very soon found out that determination, and the more determined our government became to have a treaty, the more resolved the American nation became to get as much as possible out of us before we obtained the treaty. The consequence was that the unfortunate British commissioners sent to Washington became the shuttlecocks between two battledores; whereas, if they had been properly backed up in the first instance, a different result might have been obtained. But the transaction was finished, and we had lost those islands. He might be told that the government had a very difficult case to deal with, and had made the best of a bad job, but he did not believe they could possibly have lost more than they had lost; and indeed if they had accepted the proposals of the American commissioners themselves, this country would have been in a better position. If it was wrong without proper geographical information to have negotiated an American boundary treaty, surely it was wrong to negotiate under similar circumstances as to the boundaries of Central Asia. (Hear, hear.) His object was to elicit such a strong expression

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of opinion from the house and the country as should render it impossible for any English government ever again to treat a boundary question as that one had been treated. It would have been infinitely better if we had no claim to those islands to have plainly and honorably said, like Englishmen, that their predecessors had advanced pretensions which could not be sustained, and they would therefore abandon them. If it was necessary to make concessions, the government ought to have taken the responsibility of making them; but he objected to questions being referred to arbitration which those who referred them knew must be decided against them. Canada had but one channel through which she could have access to enormous territories, and that channel was commanded by an island belonging to a foreign power, which, if it were fortified, it would be impossible for any merchant-vessel to pass in time of war. The treaty had failed to conciliate the American people, or that portion of them who were always hostile to England, and it appeared that the first act of the United States after obtaining those islands was to fortify them. He did not believe that if the affairs of England were properly conducted a war with America was at all probable, but if anything could bring about such a collision it was a negotiation such as he had described, which was calculated to produce nothing but contempt on the one hand and indignation on the other. That being so, his object was, by his resolution, which, owing to the rules of the house, he was unable to place formally before it, to prevent the possibility of any English statesman appealing to such a transaction as that to which he had called attention as a precedent. (Cheers.)

Mr. Baillie Cochrane was very glad his noble friend had brought forward this question, not only because he had made a most interesting and able statement on a very important matter, but because it gave them another opportunity of reviewing the foreign policy of the government. It was much to be lamented that the House of Commons had so seldom an opportunity of discussing the foreign policy of ministers until it was too late to do any good. It was so in this instance. The noble lord, the under-secretary, would tell them it was a *fait accompli*, the matter having been settled by arbitration; while if they attempted to bring a question forward before negotiations were concluded, they would be told it was objectionable to do so, and might cause serious obstruction in the way of a satisfactory settlement. That was the case in the dispute in the matter of the Suez Canal. The foreign policy of the government, since Lord Granville had been appointed foreign minister, had been entirely opposed to that pursued by Lord Aberdeen, Lord Russell, Lord Palmerston, and Lord Stanley. It was a policy of concession and humiliation, distinguished by the absence of all generous and noble principles. Two years since Lord Granville had sacrificed all the advantages we derived from our terrible war with Russia by giving up the Black Sea; and now, contrary to the whole course of our foreign policy, Russia was permitted to advance her frontier in the East some 400 or 500 miles. The British commissioners, though fully sensible of the great importance of the proposal of a middle channel, had referred the question of boundary to the Emperor of Germany without the power of deciding in favor of the mid-channel. It seemed as if, for the sake of peace at any price, the government were willing to submit to almost any amount of humiliation. It appeared that Lord Granville in his foreign policy resembled those people who were said to like those who ill-treated them. In the case of some English ships sunk in the Seine, Lord Granville wrote to the German government acknowledging with the most intense gratitude their condescension in paying compensation to the owners, and with regard to this question of the San Juan arbitration, the foreign secretary wrote to Lord Odo Russell to convey to His Imperial Majesty the thanks of Her Majesty's Government for the friendly motives which have induced him to undertake the task of arbitrator, and they added their sincere regret for the labor entailed upon His Majesty. ("Hear, hear," from Lord Enfield.) And then the noble lord opposite, no doubt in obedience to instructions, wrote out to America, urging that there should be no delay in withdrawing our troops from San Juan. (Hear, hear.) It never occurred to Lord Granville that we had been done in the matter. Mr. Dallas, who was governor in 1860, when the United States general attempted to take possession of the island of San Juan, wrote as follows:

"It was reasonable for us to propose to the American Government to settle the matter by proposing the middle channel as the boundary, and it was quite open to the latter to decline it, as was done. It is, however, inexplicable why, when the Americans refused to entertain the idea of the middle channel at all, we agreed to exclude its consideration, thus virtually abandoning the treaty by which we both were bound. We could not have played our cards better to play the American game, and we have been befooled to our heart's content. It is to be regretted that our government in such matters does not ask the advice of our leading merchants. Neither I, nor any of my acquaintances, have been asked to give our opinion on a subject we know so well, nor was Admiral Richards, the hydrographer to the admiralty, consulted."

Now, he wanted to know, if we were right and wise in maintaining our position in 1846, why had we changed our policy? He hoped the House of Commons would be more in accord with the country for the future than it had been by paying more atten-

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tion to these questions. He was certain that the policy of Her Majesty's Government with regard to them was thoroughly unpopular, and when the election came he believed the opinion of the country, adverse to the government as it was at present, would be rendered still more adverse in consequence of their foreign policy.

Viscount Enfield said, before he came to the question immediately before the house, he must make a few observations in reply to the strictures of his honorable friend, the member for the Isle of Wight. His honorable friend, referring to the Suez Canal, told the house that if a discussion on the subject were raised, he (Lord Enfield) might say that the time was gone by and that it was now too late. But the honorable gentleman should remember that about three weeks ago he offered the best explanation he could give to the house, and his honorable friend paid him the compliment of saying that those explanations were far more satisfactory than he had expected.

Mr. Baillie Cochrane said that the noble lord had then stated that the papers would be ready immediately, but they had not yet been produced. Viscount Enfield could not possibly have said that the papers would be ready immediately, because negotiations of much delicacy were proceeding at the time. But he would say now that he expected the papers would be shortly presented. The honorable gentleman attacked Lord Granville for what he had done in the case of some ships that had been sunk in the Seine. What were the facts? As soon as the circumstances of the case were brought to the notice of the German government, they expressed their regret for what had been done, and promised any compensation which might be considered satisfactory, and they kept their word. His honorable friend thought it very extraordinary that a letter should have been written by the foreign office to the German government expressing our thanks for what they had done; but in writing the letter we had done nothing but what was usual according to the comity observed among nations. (Hear, hear.) Then with respect to the German Emperor we had done nothing but what we were bound in duty to do when we returned thanks to His Majesty for having undertaken and discharged so laborious a task. (Hear, hear.) But surely there was no humiliation whatever in returning thanks where, as in this case, they were justly due. (Hear.) Referring to the matter more immediately before the house, he regretted that the noble lord in the latter part of his speech had so entirely denounced the principle of arbitration as a means of settling disputes between nations. He had hoped, from the wording of his motion, that his noble friend was of opinion that arbitration was in certain cases wise. He could have understood exception being taken to the terms of reference, but thought the desirability of arbitration was now beyond question. Still, no one could have listened to his noble friend with more pleasure than he had. Considering the terms of friendship subsisting between them, he was proud of the ability he had exhibited. He was afraid it would be necessary to follow his noble friend in the history of the case, and even to go a little further than he had, because he wished to show that this northwestern boundary had always been a subject of great difficulty and intricacy. Nothing could be more protracted and intricate than the negotiations in relation to Oregon Territory; they dated from the treaty of Utrecht, in 1713, by which France restored to England the Hudson's Bay territory. The treaty between England, France, and Spain in 1763 further defined boundaries between French and British possessions, and the treaty between Great Britain and the United States in 1783 agreed that the western boundary of the United States should be defined by a line "drawn from the most northwestern point of the Lake of the Woods, and from thence on a due west course to the river Mississippi until it should intersect the northernmost part of the 31st degree of north latitude." By another treaty, in 1764, France ceded to Spain the colony of Louisiana: Spain retroceded that colony to France in 1800, and France sold it in 1803 to the United States for 60,000 francs. The boundary question now began between Great Britain and the United States. Up to this time they had not been contiguous in the northwest; but in 1806 a convention was signed recognizing the 49th parallel as the boundary west from the Lake of the Woods "as far as the territories of the United States extend in that quarter, provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to or claimed by either party on the continent of America to the west of the Stony Mountains." This convention was not ratified, but it showed the origin of the boundary of the 49th parallel. The Oregon country was at that time almost unknown, and the boundaries between Louisiana and the Hudson's Bay Company had never been defined. The British government held that America could not claim north of the 40th parallel, and Americans contended that they might draw a line from the most northwestern point on the Lake of the Woods, claimed to be on the 50th parallel. The treaty of peace of 1814 appointed commissioners to settle the position of the Lake of the Woods, but to decide nothing about territory westward. The treaty of 1818, however, accomplished this. By Article III it was agreed that any country that might be claimed by either party on the northwest coast of America, westward of the Stony Mountains, should, together with its harbors, bays and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years without prejudice. This term of ten

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years was extended indefinitely by the treaty of 1827, but each party had power to close the arrangement by giving twelve months' notice. In 1819 Spain ceded Florida to the United States, thereby ceding all her "rights, claims, and pretensions" to the territories lying north of the 42d parallel. By the treaty of 1790, Great Britain and Spain had agreed that the Pacific fisheries should be open to both parties, and that settlements made on unoccupied territories should be respected. This treaty of 1819 introduced a further question. Americans contended that under it they were entitled to all territory north of the 49th parallel up to the parallel 54.40 degrees of the Russian frontier in the west coast. He would not weary the house by quoting subsequent negotiations which were to be found described in the second British statement at Berlin, presented to Parliament this year. Taking up the thread of the narrative in 1845, he stated that the British government then proposed arbitration, which was refused, and Lord Aberdeen's dispatch showed how dangerously near war the discussion approached on that occasion. The United States offered to agree to the 49th parallel, with free port to Great Britain south of it in Vancouver's Island. This was not accepted, and the offer was withdrawn. In 1846, Congress gave notice for the termination of the treaties of 1818 and 1827, but before this Lord Aberdeen had instructed Mr. Pakenham, at Washington, to accept the principle of the 49th parallel; he also sent out a draught treaty. On the 18th of May, 1846, Mr. McLane, the American minister here, reported a conversation with Lord Aberdeen, and understood him to say that instructions would be sent out to our minister at Washington, but his report differed from the actual instructions. But unfortunately, two days after this, Sir Henry Pelly, governor of the Hudson Bay Company, reported to Lord Aberdeen in favor of the route of Vancouver in 1792 as the boundary. In December, 1846, Mr. Buchanan reported in the same sense to Mr. Bancroft, and in 1848 the British government proposed a line to be drawn through a channel marked in Vancouver's chart, as one through which he had sailed, but this was demurred to. In July, 1848, Mr. Bancroft wrote to Lord Palmerston, naming the Canal de Haro, and in November, 1848, this was again repeated. In 1856, the proposal for the Vancover route was renewed by the British government and declined, but a commission was proposed, which, however, did not meet till 1857. Admiral Prevost was of opinion that the Rosario Strait must be the channel through which the boundary-line should pass, but seeing that there was no probability of its being accepted, he made a counter proposition of the Douglas Channel. In 1859, Lord Russell, writing to Lord Lyons, who was at that time our minister at Washington, said:

"It may be proper, however, that you should make the Government of the United States understand that this proposal of compromise that you are thus instructed to lay before them, is made without prejudice to the claim which Her Majesty's government consider themselves justified in maintaining to the Rosario Channel as the true boundary between Her Majesty's possessions and those of the United States. They offer this compromise in the hope that its acceptance by the Government of the United States may obviate any further discussion on the subject; but if it is rejected, they reserve to themselves the right to fall back on their original claim to its full extent."

Lord Russell in his dispatch used certain expressions which were not very palatable to the United States Government, and nothing came of his proposal. General Harney's descent on the island in 1859 led to a joint occupation, and to further delay in the settlement of the question. In November, 1870, arbitration was mooted, and Lord Russell wrote to Lord Lyons:

"It appears to Her Majesty's government that the argument on both sides being nearly exhausted, and neither party having succeeded in producing conviction in the other, the question can only be settled by arbitration. Three questions would arise thereupon: 1. What is to be the subject-matter of arbitration? 2. Who is to be the arbiter? 3. What is to be the result of the decision of the arbiter? With regard to the first Her Majesty's government are of opinion that the question or questions to be referred should be: What is the true meaning of the words relating to the water-boundary contained in article 1 of the treaty of June 15, 1846? Or, if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and which is the nearest approximation that can be made to an accurate construction of the words of the treaty?"

It would be seen that Lord Russell never abandoned what he conceived to be the just claim of England to the Rosario Channel. The President referred his proposal to the Senate, and the Committee on Foreign Relations proposed a reference of the existing dispute "to the arbitration of a friendly power, with authority to determine the line according to the provisions of the treaty of June 15, 1846, but without authority to establish any line but that provided for in the treaty." Nothing, however, was done. The civil war absorbed attention. In the protocol signed by Lord Stanley with Mr. Reverdy Johnson, in October, 1868, and in the Clarendon-Johnson treaty of January, 1869, the question was again mooted; but the treaty never obtained the sanction of the Senate, and matters remained in abeyance till 1871, when the commissioners met at Washington. His noble friend and the honorable member (Mr. Baillie Cochrane) were very

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severe upon the commissioners, and his noble friend had spoken disparagingly of their ability.

Lord G. HAMILTON denied that he had reflected in the least upon their ability. What he had said was that the commissioners were guided by the government.

Lord ENFIELD at once accepted his noble friend's assurance with regard to the commissioners. From the first they had pressed for the same end as had been sought for by all our other negotiators. They always maintained that Great Britain was fairly entitled to the Rosario Channel. The British commissioners proposed that the arbitrators should have the right to draw the boundary through an intermediate channel. The American commissioners declined this proposal, stating that they desired a decision, not a compromise. It might be said that no channel should have been mentioned; but in that case the arbitrator might have drawn the line still further west, in the South Channel, close to Vancouver Island. If the whole water-boundary had been left open, the Oregon question would have been re-opened, and we might, possibly, have lost the harbor of Esquimalt, one of the finest in the Pacific. It was said that scant justice had been done to Canada, but Sir John Macdonald had strongly supported the reference to an impartial arbitration, and in the division which took place in the Dominion Parliament, the six representatives of British Columbia and Vancouver's Island voted for the treaty. To sum up, Great Britain had always upheld the Rosario Channel, and the United States the Haro Channel. The British commission in 1857, though maintaining our right to the Rosario Channel, proposed a middle channel as a compromise. The United States commissioner refused to accept a compromise. The American Senate, to whom the "veto" belonged, never formally agreed to it, though it had once been not unfavorably considered by the Government. And at Washington, in 1871, the United States high commission distinctly refused the "compromise," pressing for a decision. To the party against whom the decision was given, whether in an ordinary court of law or in an international court of law, there must, of course, be much disappointment. He very much mistook the feelings of the constituencies of this country, and the opinion of the house, if they did not think that if the principle of arbitration was a sound, just, and good one, there was no question better calculated for arbitration than this one, which, for so many years, had been a cause of great jealously, great dissension, and much heart-burning, between this country and the United States; and that, though of course as Englishmen we regretted the decision arrived at, still we should unhesitatingly accept it. (Hear, hear.)

Mr. PERCY WYNDHAM said he would not support the motion of his noble friend if it could be construed as a censure on the imperial arbitrator, because he believed it could be shown most clearly that the decision was most natural, and the only decision the imperial arbitrator could have come to under the circumstances that were laid before him. (Hear.) He blamed Her Majesty's government for not having insisted on the Rosario Channel, and for having taken a course that enabled the American lawyers at Berlin to show conclusively to the advisers of the imperial arbitrator that whatever channel was the right channel it was perfectly impossible that the Rosario Channel could be the right channel.

Mr. EASTWICK said that in the matter of the San Juan arbitration the Americans had obtained all they had asked for, and that we had lost all that we had contended for; but that nevertheless, as all cause of discontent on the part of the former had been removed by the decision of the arbitrator in that matter, we were fully compensated for the loss to us of territory which had resulted from that adverse judgment. The truth was that our government had made a mistake in the matter. Under the treaty of 1846 it was clear that the Douglas Channel, and not the Haro Channel, was intended to form the boundary-line. By giving up the Haro Channel we had surrendered the whole matter, and it was absolute carelessness on the part of the government to have given up that vital point. We ought never to have made any concession at all on the subject, and what the government had done amounted to a complete abandonment of the rights of this country in reference to it. The matter, however, was a thing of the past, and there was no occasion further to recur to it. He wished, however, to inform the house that we were adopting almost a precisely similar course with reference to the channels at the mouth of the Saint Claire River, which the Americans were seeking to obtain the right to, although they belonged of right to Canada. It would be wise were we at once to have the boundary between our North American territory and the territory which America had recently purchased from Russia definitely ascertained and fixed.

Lord BURY deprecated votes of censure on the government being moved daily. It was rather too much that, after the course that had been taken yesterday, a fresh vote of censure should be brought forward this evening. Such a course was calculated to bring votes of censure into ridicule. We had gone to arbitration on the subject of the San Juan boundary of our own free will, and we ought to be grateful to the Emperor of Germany for having removed a cause of disagreement between this country and America. After complimenting his noble friend (Lord Enfield) on the clearness with which he had explained an intricate chain of negotiations, the noble lord related

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the history of the Oregon Territory, with a view to show that prior to the treaty of 1816, by which England agreed to a joint occupation, the Americans had no claim to it, and that their treaties with France and Spain for the acquisition of Louisiana and Florida did not affect Oregon. Coming down to the treaty of 1846, he remarked that the boundary, if laid down, admitted four constructions: the Haro Channel, the middle or Dundas Channel, the Rosario Channel, or a line down the middle of the strait dividing Vancouver's Island from the mainland, disregarding the archipelago of islands altogether. Only two constructions were, however, contended for, the Rosario Channel by ourselves, and the Haro Channel by the Americans. He thought this country should have insisted on putting the whole treaty before the arbitrator, and regretted that our negotiators gave up the free navigation of all the channels except that to be determined by the Emperor of Germany; but though the military future of Vancouver's Island had suffered a great blow from the decision, it was useless now to re-open the matter and endeavor to throw dirt at one another. For many years all negotiations with the Americans had ended in our receding and in their obtaining what they wanted. The reason was that they had always been in earnest and we had not. They had been ready to go to war if we did not give way, while the English people, for it was not merely the government and the negotiators, would not think of going to war. He thought it was Sir R. Peel who said it was better to yield the Americans a few million acres than to go to war with them. Hence in the dispute as to the boundary of Maine we gave way after considerable negotiation. On the last occasion, we might, perhaps, have carried our point, if we had shown that we were in earnest, and that we cared less about what was called friendship toward America than about retaining what might be the rights of England. He himself doubted whether a great nation could with safety yield any part of its rights in order to purchase the favor of another country. ("Hear, hear," from the opposition.) In the future we ought to be wise in time. As to the San Juan boundary-line, the question was now finally closed, and it was too late to bring any accusation against the government with respect to it; but the boundary between Alaska and our northwestern possessions in America still remained unsettled, and was referred to only the other day in the message of the President of the United States. If public attention was directed to this, and other important questions which were "looming in the future," the noble lord would not have raised the present discussion in vain. (Hear, hear.)

Lord J. MANNERS commented on the inconsistency of the last speaker, in first censuring the noble lord the member for Middlesex for having brought forward this question, and in subsequently pointing out that the importance of the events "looming in the future" fully justified him in submitting it to the notice of the house. It was, indeed, through motions of this kind, which justly criticised the conduct of the government in regard to important treaties, that we must hope to see the prospect of more satisfactory diplomatic action in the future; and, therefore, instead of deserving censure, he maintained that his noble friend had performed an important public duty in bringing this matter forward. (Hear.) The noble lord opposite (Lord Enfield) had made a most careful and clear statement in vindication of the course taken by Her Majesty's government with respect to this portion of the treaty of Washington. He thought, however, that in his historical summary the noble lord had laid rather too much stress on the supposed fact that all the English statesmen concerned in this matter had pressed the claim of the Rosario Channel. Surely the noble lord could not have forgotten that the Earl of Aberdeen did not mention that channel, and that in writing years afterward to Earl Russell he stated that this particular channel was not in his mind at the time. The noble lord opposite had, therefore, broken down in the most important part of his statement.

Mr. GLADSTONE. Where did the Earl of Aberdeen say that?

Lord J. MANNERS pointed out the passage in the blue-book, and remarked that Lord Aberdeen referred to the mid-channel. Now, no human being could say that the Rosario Channel was a mid-channel.

Mr. GLADSTONE. I beg your pardon.

Lord J. MANNERS went on to say that there was no idea of fixing on the Rosario Channel under the treaty of 1846. The treaty of 1846 required that a line should be traced down the middle channel, leaving the whole intervening space that separated the continent from Vancouver's Island. Lord Aberdeen and Sir R. Pakenham communicated their opinion on this point to Lord Palmerston. The treaty of 1859 adopted the same line. The one point now at issue was whether the English government were wise in 1871 in receding from the position they had taken up, and in not pressing for an open instead of a restricted reference. With great respect to the noble lord, the under secretary for foreign affairs, he had not shown that the conduct of Her Majesty's government, in yielding at the instance of the American Government the point of an open reference, was either wise or justifiable, and his noble friend (Lord G. Hamilton) had done good service in calling attention to that most material branch of the subject. Point after point had been yielded by Her Majesty's government to the American view of the case; and so long as an impression prevailed that our government, in negotiations

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with the United States, put forward claims in order that they might be withdrawn on the slightest show of opposition, the result was most unfortunate for the best interests of the country. He knew no course so likely to prevent a repetition of such transactions as the discussion so usefully introduced by the speech of his noble friend the member for Middlesex. (Hear, hear.)

Mr. GLADSTONE said he did not propose to enter into a discussion as to the northwestern boundary between Great Britain and the United States, because he saw no advantage in allowing it to mingle with the subject more immediately under discussion. It had been said that the time had passed when the treaty of Washington could be usefully handled in the way of criticism upon the proceedings of Her Majesty's government, but that was a matter on which it did not behoove the government to dwell. He regarded this and every other part of the treaty of Washington as a legitimate subject of criticism and objection. It would, moreover, have been difficult to criticise the negotiations on this point at a much earlier period, because the tendency of some of the criticisms heard that night would have been far from advantageous to the public interests if they had been made before the arbitration at Berlin came to an end. The noble lord, the member for Middlesex, said that in a recent debate he (Mr. Gladstone) complained that he had shut the doors of repentance against the government, whereupon he claimed credit that by the motion he was now making he intended to enable the government to do penance for themselves and set themselves right in the court of conscience. What he did on a former occasion was to deny the government the privilege of leaving what he declared to be the path of vice for that of virtue, and now the noble lord wanted the government, when they, walking in the paths of virtue, to travel over to the paths of vice. The noble lord has, therefore, appeared to-night in the character of a corrupter of the morals of Her Majesty's government. (Laughter.) The motion of the noble lord impugned the conduct of the government in allowing a limited interpretation to be placed on that part of the Oregon treaty which was referred to the decision of the Emperor of Germany. The noble lord objected to the limited reference, but he ought first to have shown that it was in the power of Her Majesty's government to obtain an unlimited reference. If it were not, then the question arose, first, whether the limited reference to which the government consented was the most legitimate and reasonable that could be chosen, and next, was it one which the government were wise in choosing rather than not to have any reference at all. He held that it was wise to have a limited reference rather than have no reference at all. We had four or five controversies open with the United States, and were on the point of closing them all with on exception. Those questions were Canada, the fisheries, the internal questions of Canada, the United States claims on England for occurrences during the war, and the British claims on the United States for occurrences during the war. The whole of these controversies were on the point of being brought to a satisfactory conclusion, and the question was whether Her Majesty's Government were to nullify it all because they would agree to no reference of the Oregon controversy, which should be in the nature of a commission to the Emperor of Germany to settle it as he thought fit. The case was one in which it seemed desirable that the arbitrator should be released from all obligation to regard the words of the treaty and thrown back on the general principles of equity. The government would have done despite to the general feeling of the country, and met with universal condemnation from every quarter of the house if they had taken a course so unwise and imprudent as to decline to admit any reference of the Oregon boundary and the San Juan Channel to peaceful arbitration. The only reference possible was one conceived in such terms as to make the Emperor of Germany master of the whole subject to decide it as he pleased; was, then, the particular reference an unwise and injudicious one? The noble lord said the government should have placed before the Emperor of Germany a reasonable alternative, and that whereas the government had never contended that the Rosario Strait was that which best fulfilled the conditions of the treaty, the government marched to certain defeat. Instead, however, of never setting up the Rosario Strait as the true and legitimate interpretation of the treaty, he asserted that the government had never set up any other strait from the time when they knew enough of the subject to set up any strait or boundary at all. (Hear, hear.) The language of Sir Richard Pakenham, in 1859, and of Lord Russell in his dispatch, had been quoted to show that Lord Aberdeen, in giving his recollection of what occurred in 1846—and no man's memory was more trustworthy, no man's habit of mind was more cautious and circumspect in any matter of business—declared it to be the intention of the treaty to adopt the mid-channel straits as the line of demarkation, without any reference to islands, the very existence of which at that time had hardly been accurately ascertained. Upon this statement was founded the extraordinary inference that the British government had never contended for the Rosario Straits. Now, what Lord Aberdeen said was that at the time the treaty was made, not being acquainted with the precise topography, a reservation was made in general terms on behalf of the mid-channel, though referring to no channel in particular. When, however, in process of time, fuller information was obtained with respect to the distribu-

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tion of land and islands and the course of waters in that region, the British government contended steadily to the end that the Rosario Channel was that which best corresponded with the terms of the treaty, and, therefore, for the fulfillment of the treaty ought to be definitively adopted as the boundary. He could not suppose that the noble lord was prepared to question that proposition. It was so plain upon the face of the whole documents, it was so entirely without plausible ground of objection, that he did not know whether he was justified in dwelling upon it in any detail. But the extraordinary course of argument which had been adopted compelled some reference to what had been said. The honorable member (Mr. Percy Wyndham) quoted from the speech of the American counsel at Berlin, who, following the practice of counsel on this side of the water, did not, indeed, misquote the words of the person whose authority he desired to enlist, but attached to those words an interpretation which was not the true sense or meaning, but was their own construction of the meaning.

Mr. PERCY WYNDHAM said he had quoted the very words of Sir Richard Pakenham as they were cited by the American counsel.

Mr. GLADSTONE replied that those words did not in the least serve the purpose of the honorable member. Sir Richard Pakenham said: "The conditions of the treaty, according to their literal tenor, would require the line to be traced along the middle of the channel, meaning the whole intervening space which separated the continent from Vancouver's Island." Sir Richard Pakenham did not commit himself to anything with respect to the Rosario Channel, but the American counsel, who must have poisoned the mind of the honorable member, ingeniously and boldly went on to say, "Thus Sir Richard Pakenham rejects entirely the so-called Rosario Channel as the channel of the treaty." Sir Richard Pakenham signed the treaty, but did not negotiate it. As the negotiator of the treaty he would necessarily have been the person most conversant with its terms. But the treaty was drawn in this country, and signed in America by Sir Richard Pakenham simply as the agent of the British government. Those who were concerned in the matter at home did not know the minute topography of the region with which they were dealing. He was far from blaming them for what they did. Indeed, he was one of the persons who was jointly responsible. But he believed it was the best settlement of which the circumstances admitted. The American Government would not consent to an unlimited reference. He admitted that it would have been for the interest of this country to have obtained such a reference. Nor did he think our case for the Rosario Channel a very strong case. (Hear.) But our commissioners used every effort to obtain an unlimited reference, and such a reference was opposed from the first, with one exception, by the American Government. In 1857, when the Douglas Channel was proposed as a compromise by the English government, the American Government refused to accept it. The exception was when the Reverdy Johnson and Clarendon treaty, with reference to the San Juan water-boundary, was recommended to the Senate by the Foreign Affairs Committee. The Senate, however, did not adopt that treaty, and the American Government at once resumed its old condition, refusing an unlimited reference, and leaving us to choose between a limited reference and no reference at all. Having this alternative, Her Majesty's government determined that a limited reference was better than none at all; and the question arose what the limited reference should be. The noble lord seemed to think the Douglas Channel should have been taken as our reference. But the Douglas Channel had only been proposed by us as a compromise. It was stated by Her Majesty's government that this offer was caused by no change of opinion on their part, but by their desire to settle the question, and Lord Russell, in 1859, expressly declared that the offer was made without prejudice to the claim which the British government considered themselves justified in maintaining to the Rosario Channel as the true boundary. The contention of the British government having thus been in favor of the Rosario Channel, were there any natural features in the case of the Douglas Channel which would have justified the British government in saying it answered the terms of the treaty? Whatever else the treaty meant it meant the principal channel between the continent and Vancouver's Island—the channel which was most suitable for navigation. Consequently, in the British argument, stress was laid upon the depth of the water, the breadth of the channel, the convenience of access and egress—upon all those natural features, in short, which, as the British government thought, recommended the Rosario Channel as satisfying the description in the treaty. But the Douglas Channel was greatly inferior either to the Rosario or the Haro Channel. It might have been taken for the sake of compromise, but it entirely failed to satisfy the main idea of the treaty of 1846, namely, that it should be the principal channel marked out for the course of navigation. In Admiral Richards's report upon the Douglas Channel, he said: "The middle channel, although inferior in capacity to the Rosario and Haro Channels, was perfectly safe for steamers." Admiral Richards went on to say that the channel was open to the same objection for sailing-vessels, and in a greater degree, in consequence of its width, which was not more than a mile. Then he pointed out that on the eastern shore there was a rock to be avoided called the Reed Rock, "a dangerous patch with 12 feet of water on it." The gallant admiral then proceeded with his agreeable description of this navigable channel, "the tide sets rapidly over these rocks."

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Lord G. HAMIL. The word "navigation" does not occur in the treaty.

Mr. GLADSTONE. True, but the treaty evidently meant the channel which from its natural features was the safest for navigation, and that was a channel having rocks covered with water with the tide setting rapidly over them, with its "southern entrance only three-quarters of a mile wide," its "tide strong," and "its bottom very irregular," yet that narrow, rocky, dangerous, insidious, comparatively insignificant channel was that for which the noble lord said we should most stoutly have contended as satisfying the conditions of the treaty, which was framed avowedly in ignorance of the geographical details. Why, any government pursuing such a course would have made itself little short of ridiculous, and would not only have incurred defeat before the arbitrator—a thing which might happen to any one (ironical cheers) however just his cause might be—but something like disgrace in the face of any arbitrator who really knew what he was about. He regretted that the question could not be more fully discussed, but he fully agreed with the noble lord that it would not be fair to estimate the importance of the subject by the number of members to be found on the benches when the debate was going on. (Hear, hear.) The labors of the house were such that many honorable members found relief and relaxation when they could. He did not deny the importance of the question or complain of the criticism which had been indulged in upon the conduct of the government. The noble lord could not and had not ventured to contend that Her Majesty's government ought to have broken off with America rather than submit to limit the negotiation to the only points to which America was willing to accede. In selecting the ground of reference, Her Majesty's government had chosen the only basis open to them to select consistently with honor and prudence. When it became their duty to go before the arbitrator with two alternatives alone, they had no course open to them except to resume the argument, which had been that urged on the British side at the commencement of the controversy, and to refer to the German Emperor the point upon which he had come to a perfectly legitimate decision, namely, between the Haro Channel, for which America contended, and the Rosario Channel, which had been the object of our desire. And that desire had been pursued with all the seriousness and earnestness and force at their command. If they lamented the chances of arbitration, at all events they were better than the chances of war. (Hear, hear.) They could not but acknowledge, however, that in this instance the natural mortification of disappointment was not aggravated in the slightest degree by any mistrust of the perfect good faith of the German Emperor, (hear, hear,) or by anything like astonishment or surprise at the conclusion to which, at the end of a difficult inquiry, he had with perfect honesty, and with every instrument of careful investigation, been led to arrive. (Cheers.)

The subject then dropped.

No. 163.

Mr. Davis to General Schenck.

No. 386.] DEPARTMENT OF STATE,
Washington, May 20, 1873.

SIR: Referring to your No. 395, of the 29th ultimo, in which you state that Lord Granville had, on that day, informed you that he had considered, and was prepared to assent to, your suggestion made in accordance with an instruction of this Department that the protocol reciting the several acts of legislation which have been passed to carry out the provisions of Articles XVIII to XXV, and of Article XXX of the treaty of May 8, 1871, should be signed at Washington, I have now to state that subsequent to the receipt of your dispatch, Sir Edward Thornton informed Mr. Fish verbally that he was instructed by Lord Granville to propose that the protocol in question should be signed at London, and showed him his instructions to that effect. Mr. Fish told him that the instructions were not in harmony with the information received at the Department from you, and that he must await further intelligence from you before deciding upon Lord Granville's proposition. The Department is at a loss to understand the reasons for making a change, of which you do not appear to have been informed.

I am, &c.,

J. C. B. DAVIS,
Acting Secretary.

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No. 164.

General Schenck to Mr. Fish.

No. 415.] LEGATION OF THE UNITED STATES,
London, May 22, 1873. (Received June 3.)

SIR: In my No. 399, on the 1st instant, I informed you of my interview and conversation with Earl Granville in regard to taking up negotiation again on the subject of a consular convention.

Since then I have had no communication from his lordship on the matter until the day before yesterday, when I received from him a note, of which I inclose herewith a copy. Referring to my suggestion that there should be an article empowering consuls of one country residing in the other to administer oaths, he states that the subject of consular attributes is receiving the attention of Her Majesty's government, and that he will communicate with me upon it when he is in possession of the materials to enable him to do so.

This, I understand, as an explanation or apology for necessary delay, and I presume I may, after a while, expect to be furnished with the counter project for which I have asked.

I have, &c.,

ROBT. C. SCHENCK.

[Inclosure No. 1.]

Earl Granville to General Schenck.

FOREIGN OFFICE, *May* 17, 1873.

SIR: With reference to the conversation which passed between us some days ago with regard to a consular convention between Great Britain and the United States, in which you incidentally remarked that there should be a power of administering oaths in each country, I have to state to you that the subject of consular attributes is receiving the attention of Her Majesty's government, and that I shall have the honor of communicating with you upon it when I am in possession of the materials to enable me to do so.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

GRANVILLE.

General SCHENCK, *&c., &c., &c.*

No. 165.

General Schenck to Mr. Fish.

No. 418.] LEGATION OF THE UNITED STATES,
London, May 27, 1873. (Received June 12.)

SIR: The money for payment of the Geneva award has been voted by the House of Commons, and without discussion, as in my No. 416 I predicted to you it would be. On Friday (23d) the clause or resolution went through committee, and last night it was agreed to in the house, but not without the talk which I anticipated.

I send you herewith the report of the proceedings on the 23d, and of the interpellation and debate last night.

You will observe that the discussion was closed by Mr. Gladstone in a speech which, it must be admitted, is characterized by a very fair degree of candor and good feeling.

I have, &c.,

ROBT. C. SCHENCK.

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[Inclosure No. 1.]

(*The Times, Saturday, May* 24, 1873.)

HOUSE OF COMMONS, *Friday, May* 23.

The speaker took the chair shortly before 4 o'clock.

THE ALABAMA CLAIMS.

Mr. Bentinck gave notice that on the vote for the Alabama claims he would call attention to the course taken by Her Majesty's government in reference to the alteration of international law prior to the negotiation.

ENGLISH ALABAMA CLAIMS.

Sir Stafford Northcote asked the noble lord the under secretary of state for foreign affairs whether the government had received any applications from British subjects for compensation in respect of losses occasioned by the destruction of their property in vessels destroyed or captured by the Alabama, (hear, hear,) and what course Her Majesty's government had taken or proposed to take in reference thereto.

Lord ENFIELD. Her Majesty's government have received certain applications from British subjects for compensation in respect of losses occasioned by the destruction of vessels by the Alabama; these applications have been taken into consideration, and the opinion of the law-officers has been taken. In accordance with their opinion, the board of trade and the various applicants have been informed that Her Majesty's government is not liable to British subjects for the acts of the Alabama and other similar vessels.

SUPPLY.—THE ALABAMA CLAIMS.

The speaker then left the chair, and the house went into committee of supply.

On the vote £3,200,000 for the payment in satisfaction of the Alabama claims,

Mr. Bentinck objected to proceeding with so important a vote at that late hour of the night, and moved that the chairman report progress.

Mr. Lowe hoped the honorable gentleman would not persevere in the motion, as it was most desirable that the vote should be taken that evening in the interests of the public service. The report could be taken at half past ten on Monday night, when it might be fully discussed, if necessary.

Sir J. Elphinstone also objected to proceeding with the vote of that evening.

Mr. Gladstone said it was for the national interest in the highest sense that when the vote was first proposed there should be no appearance of hesitation on the part of the House of Commons in assenting to it. He should take care that honorable members should have ample opportunity for discussing it when it came on again on Monday.

Colonel Barttelot, while agreeing with the right honorable gentleman that it was not desirable to resist the vote on the present occasion, disclaimed on the part of the House of Commons any responsibility for the payment of the money.

Sir J. Jenkinson thought the whole transaction must be looked upon as matter of national humiliation, and contended that when the Americans refused to withdraw the indirect claims the honor and interest of this country demanded that we should have washed our hands of the treaty. (Hear, hear.) The Times, which was generally supposed to be the government organ, (a laugh,) wound up a long leading article by stating that there were good grounds for supposing that the indirect claims had in effect been paid, although they were nominally excluded.

Mr. Bentinck then, on an assurance having been given by Mr. Gladstone that the report would come on at 9 o'clock on Monday, withdrew the motion to report progress, and the vote was agreed to.

[Inclosure No. 2.]

(*The Times, Tuesday, May* 27, 1873.)

HOUSE OF COMMONS, *Monday, May* 26.

The speaker took the chair shortly before 4 o'clock.

THE ALABAMA INDEMNITY.

The house having resumed, Mr. Glyn brought up the report of supply.

On the question that a sum of £3,200,000 be granted in payment of the Alabama claims,

Mr. Bentinck rose, pursuant to notice, to call attention to the subject, observing that the transactions of which the present vote might be regarded as the last stage, formed one of the most remarkable episodes in the history of this or any other country. He expressed his surprise and regret that they should have arrived at such

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a stage without having been fully discussed in the House of Commons, adding that he could not better show in what position we stood when the Alabama claims were fresh than by quoting the words of a statesman whose authority in the matter would be regarded as paramount on both sides of the house. He alluded to Lord Russell, who, writing to Mr. Adams in December, 1862, said: "Her Majesty's government cannot, therefore," (having given his reasons,) "admit that they are under any obligation whatever to make compensation to the United States citizens on account of the proceedings of the Alabama." Nothing could be more clear and intelligible than that statement; but, in the face of it, what course did the government adopt? Lord Russell distinctly stated and proved that, under existing international law, England was not liable to pay a shilling; whereas in the statement of the matter referred to arbitration, as understood by the government, they set forth new rules of international law, under which such liability might be established. (Hear.) The object of the government seemed to have been to frame rules by which England might become subject to a responsibility which could not be established under the previously existing law. They said: "Her Britannic Majesty has commanded her commissioners to declare that Her Majesty cannot assent to the foregoing rules as a statement of the principles of international law which were in force at the time when the claims mentioned in Article I arose; but that Her Majesty, in order to evince her desire to strengthen the friendly relations between the two countries and to make satisfactory provisions for the future, agrees that, in deciding the question between the two countries arising out of those claims, the arbitrators should assume that Her Majesty's government had undertaken to act upon the principle set forth in those rules." Was it possible to conceive a more marvelous course for a great country to adopt? Her Majesty's government framed an *ex post facto* law, and stated their willingness to have it assumed that that law existed at the time the claims arose, and their readiness to abide by it. (Hear, hear.) He was much struck by a remark made to him by an honorable and learned friend on this subject, to the effect that if he had done what the government had he should lose every client he had, and be deservedly branded as a fool into the bargain. ("Hear," and a laugh.) What said one of the arbitrators—the lord chief justice—whose remarkable judgment could not be perused without admiration? "It is," he said, "to be regretted that the whole subject-matter of this great contest, with respect to law as well as fact, was not left open to us to be decided according to the true principles of international law existing at the time when these alleged causes of complaint are said to have arisen." (Hear.) The government, in fact, committed a double mistake: they relinquished an impregnable position, and supposed—an inconceivable blunder on their part—that the process of arbitration would lead to a permanent state of good feeling and friendship between the two countries. One result of the course they had taken would be to tempt other nations to insult this country and claim damages against it, seeing how easily we yielded in the case to be tried by laws framed for the purpose. (Hear.) It was better to speak out plainly than to use the wretched subterfuges, the unmeaning expressions of friendship, adopted by governments when hostile feelings really existed; and the remarkable book recently published on the other side of the Atlantic evinced animosity towards this country and exultation at the victory achieved by America. The latter feeling was very natural, for it was a great victory so to have arranged matters that we had been mulcted of £3,000,000 for acts which did not make us indebted to them one shilling, and the excuse for the writer's tone of undue triumph was that he was unfortunately a native of a country with republican institutions, so that the high and chivalrous feeling prevailing in diplomatic matters in older and monarchical countries could not be looked for. As to his attack on the lord chief justice of England, no man was better able to defend himself, and his high character and position could never be affected by so unworthy a book. With regard to Her Majesty's government, the secretary of the treasury, (Mr. Glyn,) a man of ability, thoroughly acquainted with their proceedings, and probably speaking under their orders, had told his constituents that the object in paying the money was to avert hostilities with America. Such a statement was degrading to the country, holding out an inducement to the United States to make other demands on us, and as he presumed our temper and forbearance had some limits, we might eventually be forced into a war which would have been avoided had the government possessed the common sense and courage to say, "We owe you nothing, and will pay you nothing." The chancellor of the exchequer, too, had expressed a hope that we should often be called upon to pay a similar award; in other words, he hoped that England would again be degraded, and a large sum squandered in meeting unjust claims. Whatever the feeling of the people as to the honor of the country, the government appeared indifferent to it. Instead of carrying on long negotiations and almost petitioning America to waive the indirect claims, the government ought, the moment they were preferred, to have broken off negotiations and insisted on starting *de novo*, and seeing whether one country was indebted to the other or not. What, moreover, had become of the counter claims of English subjects in connection with the Alabama depredations? (Lord Enfield. "They are going on.") They ought to have formed

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part of the case before the arbitrators. Why had they not been submitted to arbitration? (Lord Enfield—"They have been.") Then, why were they not set-off against the £3,200,000? Why pay that sum first, and settle those claims afterwards? Again, the government professed a wish to maintain the connexion with Canada, though they had ingeniously put themselves in a position of inability to protect her. He wanted to know why they had heard nothing on the subject of the Fenian raids into Canada, which, according to the accounts given in the newspapers at the time, were owing to the negligence of the United States Government, at least quite as much as the escape of those vessels from our ports was owing to the negligence of our government. If we still held to the connection between this country and Canada, why was the grievance of Canada entirely lost sight of? Was that also to conciliate the good-will and friendship of the United States? Was there no sense of shame left in this country? Did the Government think the Canadians were blind or indifferent to those facts, and would not conclude either that we had not the courage or had not the power to protect them? On what grounds were the claims against England submitted to arbitration, while those counter claims were still under discussion? Further, he wanted to know what was the state of the negotiations between this country and the United States with respect to the damage inflicted on Canada by the Fenian raids, resulting in a large loss of property and a considerable loss of life. He contended that the honor of a great country ought never to be submitted to arbitration. (Hear, hear.) A country which was not in a position to say what were its own liabilities, and what was due to its own honor, was no longer able to call itself a great power; and the mere fact of our having sanctioned the principle of arbitration was a blow to our national honor. He brought that question forward in no party sprit. He believed Her Majesty's opposition were as culpable as the government, because it was their duty to have raised a discussion on that subject in the earlier part of those transactions. The right honorable member for North Devon, (Sir S. Northcote,) whose good faith in that matter no one doubted, was there to speak for himself, but Her Majesty's opposition in a body were absent, and therefore he said they had shown a most lamentable indifference to what was due to the honor and interest of this country. In conclusion, having carefully and to the best of his ability studied that question, he believed there could not be found in the records of any country in the world such a marvelous monument of human folly or such a signal instance of national degradation as was presented in that transaction. (Hear, hear.)

Mr. Gregory thought that, although the payment of that money was a foregone conclusion, it was well that the country should have before it the circumstances under which the liability was incurred. The honorable member then traced the course of the negotiations from the beginning, as given in the official correspondence, and expressed his belief that if Her Majesty's government had adhered to the line originally adopted by Lord Derby and Lord Clarendon, and insisted on a clear basis being laid down for any treaty which might be concluded, much of the difficulty and the unfriendly discussion which had occurred between the two countries would have been avoided. The eagerness with which the government had entered into the negotiations must have led the Americans to suppose that we were willing to accept terms less favorable than had before been insisted on. He also thought it much to be regretted that the full powers and confidence which, according to the terms of their appointment, were to be given to the commissioners, were not ultimately reposed in them. The government had hurried them off, and when they refused, as was natural and proper, to negotiate except a clear basis were laid down, the government repudiated that sensible decision, and assented to principles upon which all these liabilities had arisen. He thought no man of any legal experience in that house could remember a case in which an *ex post facto* law had been employed to control an antecedent state of things. He should have been ashamed of himself, and should deserve to lose any professional reputation he might possess, if he had ever consented to such a settlement. It was not only an unprecedented, but a monstrous settlement, and he thought the house should enter its decided protest against the principles on which it was based. (Hear, hear.)

Mr. Anderson asked the right honorable gentleman, (Sir S. Northcote,) to explain what had never yet been explained, why the surrender of General Lee was taken to be the end of the war, after which no claims by British subjects were allowed to be brought forward. That surrender was not the end of the war, for there were three confederate armies in the field for weeks afterwards. Damage was done to British property after the surrender of General Lee; and surely the proper period to fix upon as the end of the war was whatever period was fixed on by the American courts in cases affecting American subjects. (Hear, hear.) In this matter he could not help thinking that the Americans got the better of us. (Hear, hear.) The noble lord had been asked whether British claims arising out of the Alabama depredations were to be considered, and he replied that they were going on. The noble lord, however, was mistaken, for the claims now under consideration at Washington were not British claims arising from Alabama depredations, but counter claims for a totally different

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thing. But the question at issue was not confined to the destruction of American ships and goods by the Alabama. The Alabama burnt a number of vessels in which British cargoes were stowed. He had heard of an instance in which an American ship loaded with British goods, having been boarded by Captain Semmes, the captain of the ship had informed him that the goods in the vessel were British and not American, and showed him the papers signed by the British consul. Whereupon Captain Semmes said he knew that very well; but nevertheless, he told his lieutenant to take out of the ship what he wanted and then to burn her, which was accordingly done. If we were obliged to pay for damages sustained by the Americans by reason of the conduct of the Alabama, why were we not equally bound to pay for the damages sustained by our own subjects, by reason of the acts of that vessel? The position of the government in this matter appeared to him to be untenable. He was not influenced by the fact that the law-officers of the Crown had advised Her Majesty's government not to accede to these claims on the part of the British owners who had sustained losses by the Alabama, because he was aware that the opinion of counsel was largely influenced by the manner in which a case was laid before them. The present state of this question was most unsatisfactory, and these claims could not be allowed to remain unsettled. As for the American claims, which had been supported by the Geneva arbitration, we must pay the money, and he would not agree that in so doing we should, as had been suggested by some honorable member, undergo any degradation. (Cheers.)

Mr. F. Powell expressed his approval of the principle of arbitration as a means of settling international disputes, although there were some points in the negotiations that had occurred between ourselves and America which he did not approve. He trusted that the government would pay the whole of the sum awarded to America by the Geneva tribunal out of the revenue of the current year, as it was possible that our finances might not remain in so prosperous a condition as they were at present. He objected to the *ex post facto* rules that had been agreed to as the foundation of the Geneva award, and regretted that the language of the lord chief justice, when acting as our arbitrator, should have been censured by the chancellor of the exchequer, instead of being supported by Her Majesty's government. He rejoiced in the fact that the arbitration had been submitted to, as it had produced a very friendly feeling between the two countries, and had put an end to all danger of ruptures between England and America. These dangers were past; he hoped there were no dangers to come.

Sir S. Northcote said that until quite recently he had thought it would be well that this vote should be allowed to pass without comment. (Hear, hear.) But, of course, it was open to any member of the house to take, and, perhaps, not unlikely that some members would take, the opportunity, when this vote came on, of challenging the whole question; and he himself certainly would not be at all disposed to find any fault with his honorable friend, the member for West Norfolk, either for having called attention to the subject, or on account of the general character of the remarks, which, from the point of view he had taken, he had thought fit to make. He himself, however, should not have taken part in this discussion but for the pointed references made to him by one or two speakers, and especially the question which had been put to him by the honorable member for Glasgow. He must really ask the indulgence of the house for anything he might say on this matter. He felt that he was in a position of very great difficulty. (Hear, hear.) He accepted the appointment—the very honorable appointment—of one of the commissioners in 1871, at the request of a government with which he was not connected, for the purpose of carrying through what he believed then, and what he still believed, to be a work of great national importance. (Hear, hear.) He found himself with colleagues officially connected with the government, and who, of course, had much greater authority than himself on matters in which the sentiments of the government were concerned. And the commissioners as a body found themselves in this remarkable position—which, probably, never had been the position of any other negotiators in a matter of similar importance—they were at the end of a telegraph wire, every stage in their proceedings was reported home, and they received from time to time communications from her Majesty's government, which, although they had plenipotentiary powers, they felt themselves bound to obey. The consequence was that the negotiations were conducted with great difficulty. (Hear.) He had never disguised from himself the fact that parts of the negotiations had not been so thoroughly and satisfactorily settled as he thought they might have been if the negotiations could have been conducted in another manner. With reference to the question which the honorable member for Glasgow had put to him, he was sorry to say he was not able to give him as satisfactory an answer as he ought to give. He violated no confidence in telling him what really did occur. On the original draught of the articles to which the honorable member referred, it was pressed on one side that compensation should be made for claims for loss to British subjects which had occurred during the recent rebellion in the United States. On the other side, the British commissioners did not like the phrase "rebellion;" they preferred the phrase "civil war," and there was a very animated discussion between the two bodies of commissioners on the question whether the word "rebellion" or the words "civil war" ought or ought

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not to be admitted into the treaty. They were very near the end of their proceedings, and as it was very hard to get over the difficulty, a suggestion was made, he thought, at the last conference, that the difficulty might be got over, neither side being willing to waive a particular expression, by inserting dates which would cover the period that was intended. Dates were marked. For himself he might say that he did not take particular notice, he did not know whether notice was taken by others, whether the last date that was given really did coincide with the termination of the war or not. But it was his full belief that he did, and he believed that it was everybody's idea that it made no difference at all. He believed there was no intention of making the period less than was originally intended by both parties. However, if the changing a word in the original clause had the effect of excluding parties who otherwise would have been entitled, he for one was very sorry. He did not know whether that was so or not. He doubted whether any claims had been excluded that would have been admitted if a later date had been taken. That was the history of the case. With regard to the matter generally, he would rather leave it to the government to define, if it was necessary to define, the precise terms of the treaty, because the terms were altered from time to time. They assented to the terms which were proposed; and with regard to expressions which had been criticised, they were really more expressions of Her Majesty's government than of the commissioners. But this he wished to say with reference to the agreement generally. Both now and on other occasions the treaty had been spoken of as something derogatory to the honor of Great Britain. That was a view which, if it was a correct one, would reflect great discredit not only upon the government that negotiated it, but also upon all who in any way took part in it. He thought the way in which the treaty was spoken of in that and in the other house, when it was first laid before Parliament, showed that at all events those who were responsible for the negotiation could not and would not admit that in the very slightest degree they had been parties to any measure of national humiliation. (Cheers.) He hoped he could speak of this matter irrespective of any personal connection with the proceeding. He hoped that he could look upon it as an independent Englishman and a member of the legislature, (hear;) and he would say this, that whether or not the arrangement which was made was altogether the best that could have been made—which question he left aside—the arrangement was made with a strict regard to what was believed to be by those who negotiated the treaty, the honor and the real interests of England. (Hear.) With regard to the particular point brought forward by his honorable friend, the honorable member for West Norfolk, he must say distinctly that it would have been quite impossible for the English commissioners to have accepted the rules originally suggested by the American commissioners, but that the rules which were ultimately adopted went very little beyond what he believed was acknowledged to have been international law at the time when the act of 1870 was under discussion, and, moreover, that the rules embodied principles coinciding very closely with principles on which Lord Russell and the government of the day professed themselves willing to act, and therefore he (Sir S. Northcote) could not admit that the commissioners took an *ex post facto* view of the case. If anybody would read the decision of the arbitrators he would find that, with the exception of the lord chief justice, they held that the rules, as they stood, added nothing to international law, and upon the merits of the general question, even if these rules had not been laid down, the decision of the majority would have been precisely the same as it was. The lord chief justice, on the other hand, would have decided that we had not committed any violation of international law as it was understood before the rules were laid down; but then the judgment of the lord chief justice upon the facts of the case would have been that we had not exercised that vigilance which we ought to have exercised, and which Lord Russell, in his dispatches at the time, always expressed himself desirous of exercising. It was far better, then, that we should have endeavored, before going to arbitration, to come to an understanding with the United States as to what we really wished, for the sake of this country and of civilized countries generally, should be held to be international law for the future. Well, then, what was the substance of those three rules? The substance of the three rules, their intent and *animus*, was to prevent, for the future, that which we endeavored to prevent, but entirely failed in preventing, when the Alabama escaped. There was no country more interested than our own in preventing the sending out of privateers, or vessels of that character, from neutral ports. We believed that the great object to be gained by means of this settlement was not so much to obviate a quarrel with America as to get a good rule for the future which should free commerce from the dangers to which it had been exposed. But I wish it to be understood that it was, on every account, most desirable that that sort of ill-feeling which had been engendered between the two countries should be set at rest; not that there was any idea whatever of this matter leading to war between the two countries, but what it would lead to was obvious enough in the negotiations about a wholly different matter. In the case of the Canadian fisheries, upon which it was most important that there should be a good understanding between the two countries, we found that a sort of soreness which was felt by the Americans

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really prevented practical and good arrangements being made. (Hear, hear.) Therefore it was most important that good relations should be restored between the two countries, and the whole scope, spirit, and tendency of the treaty of Washington was to establish such relations and lay down satisfactory rules with respect to commerce for the future. He did not deny that what had happened since had been in many respects unsatisfactory. Reference had been made to discussions of last year, which we all viewed with great pain, and which we would be happy, so far as possible, to forget. He was not at all anxious that we should huddle up and put certain misunderstandings out of sight. It was much better, if we thought there was anything wrong in the language used by the Americans—as, for instance, last year, with respect to the indirect claims, or recently with regard to any indications that might have been given as to the result of the arbitration—that these matters should be temperately and fairly discussed. (Hear, hear.) Having gone so far, it would be a great pity if we allowed ourselves to stop short of a clear and satisfactory arrangement of this question of international law. And though some few persons in America in a prominent position had uttered expressions which he thought deserved the reprobation they had received in this country, he believed the great mass of the Americans themselves felt quite as much annoyance and sorrow that such pretensions should have been put forward. The house was now about to pass this vote, and it was really no matter of regret that some discussion should have occurred upon it, but he hoped that the house and country would feel that we ought not to allow any sense of having been losers by the arbitration, or in some respects not having been met in the way we hoped, to interfere with our passing it in a cordial manner. We ought to maintain the most friendly relations with the United States, but in order to do so two things were necessary—first, to be uniformly courteous in our dealings with them; and, secondly, to speak openly whenever we thought they were unreasonable. (Hear, hear.)

Mr. D. Dalrymple did not grudge any money we had to pay on account of the Alabama, because he believed our government made a great mistake in not taking more effectual measures to prevent the escape of that vessel. He was very much afraid, however, that other countries were sufferers by the depredations which had been committed, and he was informed that France had claims for losses which would come under the same category as those of the United States. Certain of our own countrymen had suffered losses, and although the law-officers of the Crown had pronounced the government not legally liable in this respect, he doubted the justice of the decision. If compensation were paid to the foreigner for his ship, surely the subject should be compensated for the cargo carried in that ship. Unless this were so, no great power would in future resort to arbitration. (Hear, hear.)

Mr. GLADSTONE. It would have been advantageous if this vote had been agreed to without discussion, but I must express my obligation to the honorable member for having postponed the discussion until this stage. I desire, in the first place, to disclaim, on the part of the government, all responsibility for the expressions which have been ascribed to the honorable member for Shaftesbury, (Mr. Glyn,) and I must also take exception to the honorable gentleman's view of the chancellor of the exchequer's feeling on this subject. The honorable gentleman seemed to think the chancellor of the exchequer exults in opportunities for throwing away three or four millions of surplus, and feels it to be in the nature of absolute relief. Liberal and open-handed as my right honorable friend is, (laughter,) I do not think he would carry his generosity to such a degree of extravagance; and as regards the honorable member for Shaftesbury, I do not think he made use of the expressions that are put into his mouth by the honorable gentleman. But, perhaps, it is not necessary to enter into these matters, which are really by-gones. The objections to the treaty have been made with great breadth and precision, and the honorable gentleman says that it was a great and capital blot on the government of this country that the Washington treaty was not set aside when the indirect claims were preferred. That is not an extravagant proposition, but it is unsound. The question, in a great measure, depended upon the presumption of good faith. It was impossible, in our view, to conceive of a more gigantic error than was made by the American Government in importing the indirect claims. As was shown by the documents of the British government, they were so enormous that it was incredible anybody could seriously advance them. It was difficult to limit the number of millions to which these claims extended, but the question is, were they advanced in good faith? If we could have shown that they were advanced in bad faith, then we should have been justified in withdrawing from the treaty altogether. We have been blamed for not having used forensic statements and arguments, but such weapons have their dangers as well as their advantages. We were bound to give credit to the American Government for the same good faith as we ourselves were actuated by. If we had done what the honorable gentleman complains was not done, we should have exposed ourselves to the most serious charges of having tampered with those principles of honor and truth which I am sure he would be the first to deplore. The honorable gentleman went on to say that the honor of this country should never be submitted to arbitration. That is a sound doctrine, but the honor of the country had not been challenged. If

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the question had been the truth of a charge of willful departure from national obligation, we should never have thought of going to arbitration. There are some on the other side of the Atlantic who believe the neutrality of the British government was insincere, and that it was challenged on that account, but we did not go to arbitration on that ground. The question whether a government's subordinates had exercised all the care and diligence the case required was a question quite apart from the honor and intentions of the government, and that was the question submitted. Then the honorable gentleman asks why the arbitrators decided upon the claims of the United States before they considered the British claims against the United States. The honorable gentleman is in error in supposing it was intended to give such precedence, or that precedence was actually given to the Alabama claims over private claims. The Alabama claim was a public claim arising between the two governments; the other claims were made by citizens of the United States against the British government. The arbitration upon these private claims undoubtedly lasted much longer than the arbitration at Geneva; and no wonder, because whereas at Geneva there were only a small number of questions for decision, the cases for decision at Washington are exceedingly numerous, and may be counted by hundreds, if not even by a larger figure. So far from there having been delay in carrying these cases to arbitration, as compared with the Alabama claims, the arbitration upon the private claims at Washington began long before the proceedings at Geneva. They began, I think, in October, 1871, and have since been conducted with as much expedition as it was in the power of the commissioners to use. (Hear.) Then the honorable gentleman refers to the Fenian raids, and complains that they were not included in the treaty of Washington, founding upon this complaint the further observation that a great wrong was thereby done to Canada, and must be felt by our fellow-subjects in the Dominion. Now, the conclusion at which the government arrived was that it was not part of their duty to insist that the Fenian raids should be made subjects of discussion and settlement along with the other matters included in the treaty. It would, however, be a mistake to suppose that the government on that account forfeited their title to bring forward claims arising out of the Fenian raids. Nothing has at any time been said or done by the government to weaken their title to claim compensation from the United States on account of the Fenian raids. The only question we decided was as to the propriety, or at any rate the necessity, of mixing up the consideration of this subject with the other questions included in the treaty. It is quite true that the government have made a separate claim upon the United States in the matter of the Fenian raids. (Hear, hear.) But that fact does not bear upon the credit or the discredit of the treaty. The treaty of Washington did not surrender and did not include these claims. (Mr. Bentinck. Why did it not include them?) I need not now go back to the considerations which influenced the decision of the government, because Parliament knew well what our decision was, and did not press us to include in the treaty the question of the Fenian raids. And I say that that claim, whatever it may be, suffered no prejudice whatever from the proceedings in connection with the treaty, but stood upon its own merits after, as it did before, the conclusion of the treaty. (Hear, hear.) Then, sir, I wish to remove an entire misapprehension, that the non-inclusion of this claim in the treaty was a wrong done to Canada. The question as regards Canada was a question of money. Canada was informed by the British government that we were perfectly ready to recognize her claim for the damage done by the Fenian raids; and the Canadians, so far from being discontented, appeared by no means disinclined to entertain that view of the matter. The losses they suffered were fully discussed between the government of the Dominion and this country, and the question of a money payment was considered, but the views of the Canadians rather inclined to a different form of compensation. It finally resolved itself into an imperial guarantee for the purpose of a great work in the Dominion; and the Canadian government recognized this guarantee as in full satisfaction of any losses sustained through the Fenian raids. (Hear, hear.) The honorable member, then, should bear in mind that the Canadian government had nothing to complain of in the shape of pecuniary losses from Fenian raids, for which they had received ample compensation, and I apprehend that they think so, too. Further, Canada herself had a far greater interest than any other part of the empire in the conclusion of the treaty of Washington. The fishery question alone continually menaced the peace of Canada. No doubt it also menaced the relations of this country and the United States, but Canada had the most direct and vital interest in the speedy and complete settlement of all these questions. So far, then, from admitting that the treaty of Washington ought to be a subject of dissatisfaction in Canada, or that it is a subject of dissatisfaction there, I believe that the Canadian people do not view the treaty at all in the same light as the honorable member, and that great satisfaction prevailed throughout the Dominion at the settlement of these alarming and menacing differences. Let me remind the honorable member that Canada possesses a free and effective parliamentary government, and that government had had its conduct tested since the treaty was concluded. The honorable gentleman (Mr. F. S. Powell) has paid a just

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tribute to a distinguished member of the Canadian ministry whose recent loss we all deplore; and the test applied at the elections to the conduct of the government had been to give it the approval, and not the disapproval, of the people of the Dominion. (Hear.) The honorable gentleman (Mr. Gregory) has stated that Her Majesty's government repudiated the acts of their commissioners. He had nothing upon which to found this extraordinary statement, except a passage in the published correspondence in which the commissioners stated that they were limited by their instructions in a certain matter, and that with regard to a demand made by the American commissioners, they would refer it home for the instructions of their government. The question was referred home, and the effect of the reference home was a modification of the ground previously taken by the British commissioners, under their instructions, but this does not give the smallest color to the assertion of the honorable gentleman that the British government repudiated the act of their own commissioners. A point of greater importance was his statement that the fatal error of the negotiations was that we allowed our conduct to be judged by an *ex post facto* law, and that, in consequence of such assent on our part, the country has been not only condemned to pay a very large sum of money, but likewise stands discredited and dishonored by the condemnation. Now, I agree with the honorable gentleman—if our liability for this payment accrues in consequence of any gross error of that kind, the payment does in itself imply a great deal of discredit, as well as mere pecuniary loss. But we do not admit the main proposition of the honorable gentleman. We deny that we consented to be judged by an *ex post facto* law. There are various points to be considered in this connection. First, Was the award made at Geneva either in whole or in part due to the operation of the three rules? ("Hear" from Mr. Gregory.) The honorable member evidently thinks it was. I do not presume to say that the declarations made at Geneva gave us the means of saying with absolute certainty that it was not, but the opinion of many of those who are most competent to judge, and who have most carefully and completely mastered the effect of the whole proceedings at Geneva, is that the three rules did not either in whole or in part bring about the award; that if the three rules had not been included in the treaty, the award would have been the same; and that the award depended upon the arbitrators' view of the obligations of international law, not upon the principles embodied in the three rules. (Hear, hear.)

Mr. GREGORY. The right honorable gentleman will remember that the words "due diligence" run through the decision of the arbitrators.

Mr. GLADSTONE. That is perfectly true, but it is also perfectly immaterial. What can be more trivial than the stress laid here upon the words "due diligence?" They are quoted as if they involved some new and unheard-of principle. But surely it is mere matter of course, the mere A B C of international duty, that whenever obligations are cast upon a state, due diligence must be shown in the discharge of those obligations. (Hear, hear.) But suppose that the three rules were responsible, as I do not admit they were, for the award, did we on that account suffer any injustice? Were they, as regards us, an *ex post facto* law? I say they were not. We deemed that they formed part of the international law at the time the claims arose, but we never deemed that they constituted part of our own obligation. We had a municipal law, the execution of which we ourselves recognized as part of our duty to America, and the true construction of which was in strict accordance with the terms of the three rules. It was the standard of duty we ourselves set up for ourselves, although we had not taken it as part of the international law. It was not, therefore, an *ex post facto* law, so far as regards us, but a new form of expression given to that which we had recognized as part of our own duty. Why was that form of expression used? Because the great advantage of this proceeding was to make some approximation to the international law of the future, and we knew that the concurrence of those two great countries would be a great step achieved toward the incorporation of those rules in the general code which binds nations together. (Hear, hear.) Therefore I hope the honorable gentleman will at least understand that to be our view. We in no degree admitted them to be an *ex post facto* law. We look upon that as a vulgar error, which widely prevails in the popular mind, (hear hear,) prevails at least to some extent, and no wonder it should, when supported by authority so respectable as that of the honorable gentleman, but it is one which for the sake of the common sense and intelligence of the country ought to be dispelled. Sir, the honorable member for Norfolk summed up all his difficulties and objections by stating that we did not owe a shilling, and consequently had undergone humiliation and degradation without precedent by being placed in a position in which we have to pay a great deal. Probably we may all think that a severe view was taken of our case at Geneva. (Hear, hear.) That is a sentiment which it is most natural that we should entertain. But let us remember that we are not the most impartial judges in our own case, and that the arbitrators have at least the presumption of impartiality. We must also bear in mind that high authorities here before arbitration declared publicly that if arbitration resulted, we should have to pay a considerable sum. It is but fair to remember these things on behalf of arbitrators to whom our obligations are admitted for having undertaken a case of such interest to us both. But

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suppose it is true that we have to pay more than a temperate, or perhaps I should rather say, exact view of our conduct would have awarded. At any rate, that excess is one which, although it tells against us for the moment, will tell in our favor in the long run. The interest of this country is in the strictness of the code, not in its relaxation. It is highly for our interest that the obligations of neutrals should be highly estimated strictly defined, and rigidly enforced. (Hear, hear.) We should therefore remember that whatever may be considered the undue strictness of this judgment, if there be undue strictness, it is certainly a fault not likely to be injurious to us, but the contrary in the long run. But we must look a little higher than the precise question whether the arbitrators exactly hit the mark. They accompanied their judgment with a multitude of propositions which have become the subject of debate, but these are in our view the preamble of the sentence and have no relation to the general law on the subject. The honorable gentleman will not, I am sure, forget, that if we look beyond the mere question of success and failure, there are important deductions to be borne in mind. Suppose the position of the two countries with respect to the indirect claims were reversed, and that the honorable gentleman, instead of being, as he is; a patriotic member of the House of Commons, was a patriotic member of the American Congress, (a laugh,) what would he have thought of the position of his own government with respect to those indirect claims? Because he will bear in mind that the indirect claims were not waived. They were excluded, and therefore repelled not on the merits, but on principle, by the arbitrators. (Hear, hear.) I am endeavoring to find some soothing consideration for the honorable gentleman. (A laugh.) He will have the satisfaction of bearing in mind, also, that although we are going to pay a large sum, it is not the sum asked for by the Government of America at Geneva. Well, that is some consolation. The damages claimed were between £8,000,000 and £9,000,000; the damages given were between £3,000,000 and £4,000,000—a large sum, certainly; but instead of voting $40,000,000 the honorable member will have to vote only $15,000,000. In our view, whether in that respect the judgment is a right or accurate judgment, or whether some considerations may not have been pressed against us beyond what exactitude would warrant, that, in our view, is a very small matter. (Hear, hear.) It is a small matter compared with the cost of war; it is a small matter compared with the value of the good-will and the improved and peaceful relations subsisting, and happily likely to subsist, between this country and America. (Hear, hear.) I have heard the criticism of my honorable friend behind me upon the Government of America, and we are told that that Government is not in the right hands. Well, there are a great number of people who think that the government of England is not in right hands. (Laughter and "Hear, hear.") We ought not to rest the case too much upon criticisms of that sort. It is not easy to understand the entire spirit of the institutions of a country, and unless we do, criticisms upon particular features of them are apt to mislead. If it be true that there are many of the most illustrious citizens of America who do not hold public offices of responsibility, on the other hand it is admittedly true, as we have seen in the case of the Trent and in other cases, that the Executive Government in America does enjoy a very considerable independence; and it is, again, a purely vulgar error which prevails on this side of the water to suppose that the pressure of the mob, on the affiation of the moment, governs as a matter of course the proceedings of the authorities in America. I believe that to be entirely wrong: I believe in the genial, cordial good-feeling of the bulk of the American people toward this nation, from which it springs. (Hear, hear.) I believe, also, that whatever be the defects of the American institutions, (and of course they are defective, like our own and all others,) they will suffice to give such expression to the good feeling of the American people as will powerfully tend to maintain good and cordial relations between the two countries. (Hear, hear.) Sir, it is a great happiness to see this serious and menacing cause of alienation and estrangement, if not of war, removed by a great international arrangement. (Hear, hear.) Naturally we wished, as Englishmen, to win at Geneva. I did, for one; probably all of us did; but any amount of disappointment we may feel at the result is but an inconsiderable deduction for the satisfaction attendant upon an arrangement which removes such causes of difference between two great countries like England and America, and does so much, as I contend, for mankind at large by the example it sets of a peaceful settlement of disputes as a substitute for the bloody arbitrament of war. (Cheers.)

Mr. Cavendish Bentinck said the statement of the first minister was bewildering and unsatisfactory, and it was still necessary to ask, and to press for an answer to the question, what was to be the policy of the government in regard to the communication of the three rules to foreign powers. The intentions of the government on that point were of importance to the maritime constituencies. He was afraid that in this respect, as in all others, the treaty would be a failure, as it was admitted to be by all except the occupants of the treasury bench. The sole cause was the unconstitutional course pursued by the government, in not submitting the treaty for the consideration of Parliament, as some honorable members on the ministerial side of the house contended that all treaties ought to be. This treaty was essentially one that ought to have been

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subject to the control of Parliament, because the Crown could not bind itself to pay money without the assistance of the house. When he urged this point last year the reply made was that the government had a right to pursue this negotiation, because they had reason to believe that both Parliament and the country, by reason of previous negotiations, were in favor of a reference of this question to an impartial arbitration, so that a reference to Parliament might be dispensed with. But this was an unconstitutional and an unhappy and unfortunate course, and there was no precedent for it. In 1815, the Russo-Dutch loan was negotiated in pursuance of the treaty of Vienna, and an article in the treaty provided expressly that His Majesty negotiated to pay subject to the approval of his Parliament. In 1857, when the sound-dues were altered, there was an article in the treaty expressly providing that Her Majesty agreed to pay the money subject to the approbation of Parliament, and a resolution was submitted to this house, and carried after opposition from gentlemen below the gangway. If, in like manner, the Washington treaty had been submitted to the house the island of San Juan might have been saved, and we might have had impartial and competent arbitrators and umpire. But that we had neither the one nor the other was admitted by the first minister. It was not necessary to impugn their honesty, but they were unacquainted with the English law, which they had to interpret, and some of them were even unacquainted with the English language. The right honorable gentleman said the judgment of the majority was formed in independence of the three rules; but the lord chief justice arrived at a conclusion adverse to us on one point simply by reason of the effect the three rules had upon it. And still the right honorable gentleman said the three rules did not matter a straw, and whether they had been passed or not, we should have had to pay this money. If the question had been brought before the house in all its bearings, the house would have taken good care that efficient men were nominated as arbitrators. The real secret was that the right honorable gentleman and his colleagues were overpowered by the exploded doctrines of Mr. Cobden and the right honorable member for Birmingham. They imagined that peace at any price was the only policy to be pursued, and the substance of the telegrams sent to the right honorable member for Devonshire was, "Sign the treaty at any price." He was quite satisfied that the opinion of the country was against the policy which had been pursued; but, although they had been degraded by the government, he believed a good day was coming when Old England would again assert her power in spite of the enmity and envy of other nations, and the incapacity of her government.

The resolution was then agreed to.

BRITISH CAPTURES BY THE ALABAMA.

Sir J. Elphinstone asked the first lord of the treasury whether it was the intention of Her Majesty's government to submit the claims of Her Majesty's subjects for losses sustained by the capture of vessels containing British property by the Alabama to arbitration.

Mr. GLADSTONE. Her Majesty's government have no such intention. I think the question, judging from its form, has been put under an entire misapprehension. It appears to be implied that the government submitted the claims of certain persons, not subjects of Her Majesty, to arbitration. That is altogether a mistake. No claims of individuals have been submitted to arbitration in relation to the Alabama. What was submitted to arbitration was entirely a question between the two governments.

Mr. Anderson asked the under-secretary of state for foreign affairs whether he had any objection to lay upon the table the case as submitted to the law-officers of the Crown, on which they gave the opinion that, notwithstanding the British government having been found liable for the damage done by the Alabama to the subjects of other countries, she was not liable to her own subjects for similar damage similarly inflicted.

Lord ENFIELD. It is not usual to present to Parliament the communications which pass between the foreign office and the law-officers of the Crown, on cases submitted to them, such communications being considered to be of a confidential character, and I could not undertake to make an exception to the custom in the instance just alluded to by the honorable member.

No. 166.

General Schenck to Mr. Fish.

No. 426.] LEGATION OF THE UNITED STATES,
London, June 9, 1873. (Received June 25.)

SIR: When your No. 386 was received Lord Granville had gone out of town for the Whitsuntide vacation. He did not return until the day

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before yesterday, (Saturday.) To-day I have had an interview with him at the foreign office and brought to his notice the discrepancy between my report, made to you in my No. 395, and the instructions which appeared to have been given to Sir Edward Thornton.

I remarked to his lordship that it was certainly our understanding that the protocol reciting the several acts of legislation passed to carry out the provisions of Articles XVIII to XXV, and of Article XXX, was to be signed by you and Sir Edward at Washington.

Lord Granville at once asked me if I had received any cable telegram on the subject. I answered no, and he thereupon showed me one to himself from Washington announcing that the protocol had been signed there on the 7th. This, of course, put an end to any questions about the matter.

His lordship agreed that what I had written to you on the 20th of May last was a correct account of what had passed between him and me, and did not give any clear explanation, or even seem clearly to understand how it was, that a different view had been taken, but only referred in a general way to the confusion which comes sometimes from having to use and mix telegraphic messages and written dispatches in correspondence on any subject.

I have, &c.,

ROBT. C. SCHENCK.

No. 167.

Mr. Fish to General Schenck.

No. 401.] DEPARTMENT OF STATE,
Washington, June 13, 1873.

SIR: I transmit a copy of a letter of the 7th instant, and of the accompanying papers, addressed to this Department by the Secretary of the Treasury, and of another of the 8th instant, by General Butler, relative to a large increase, to take immediade effect, of the tariff on rum and tobacco, imposed by the authorities at the British settlement on the Gold Coast of Africa. Citizens of the United States will be seriously affected by this measure, the necessity for which is not apparent and the legality of which may be questioned. It appears that residents of Boston had a quantity of the articles there, and that cargoes were on their way thither. Though every government may have the abstract right to direct an increase of its tariff on importations to take immediate effect, it has been the practice, it is believed, of most governments to postpone the time for such purpose until traders could have due warning of the change. That practice has, in this instance, been disregarded in a way which is believed to afford grounds of just complaint. You will consequently present the subject to Her Majesty's principal secretary for foreign affairs, and will express a hope that such redress will be afforded as may be found due.

I am, &c.,

HAMILTON FISH.

Mr. Richardson to Mr. Fish.

TREASURY DEPARTMENT,
Washington, D. C., June 7, 1873. (Received June 9.)

SIR: I inclose herewith a communication, dated the 5th instant, from Mr. Bartlett, esq., covering certain papers relative to the imposition by the British government in

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the West Africa settlements of a high duty upon rum and tobacco, imported there from foreign countries. Mr. Bartlett complains that the duty in question was imposed without reasonable notice being given, and alleges that at the time it took effect he had certain vessels on said coast with cargoes of before-mentioned articles, upon which he sustained great loss, by reason of the sudden imposition of said duty.

The papers are respectfully referred to you for such action as you may deem proper.

I am, &c.,

W'M A. RICHARDSON,
Secretary.

[Inclosure 1, with dispatch of June 7, 1873.]

Mr. Bartlett to Mr. Richardson.

BOSTON, *June* 5, 1873.

ESTEEMED FRIEND: You have been so kind to send me statements of the condition of your finances, which show a gradual reduction beyond what could be expected with the increased expenses of carrying on, and it looks now you have matters on a good basis.

I have a matter come up on the coast of Africa which, if carried out, would prove very disastrous.

The English government some few years since made a purchase from the Dutch, by exchange of territory and cash, of certain towns on the Gold Coast. During the last four months the Ashantees have been at war with the Fantees, living in the so-called English settlements, of which the object is to get a foothold in Elmina. Before the English got possession of Elmina and other towns, the Dutch paid the king of Ashantee a certain annuity, but since the English have ruled they have stopped this subsidy, which is a part reason of the war.

In 1867 the English commenced agitating the duty, and gave notice of a duty of 6*d.* (sixpence) per gallon on rum, to commence one year from notice. Last year they put on one shilling on rum, and one penny per pound on tobacco. Both were more than the natives could pay, and this last was done without notice.

During the month of April, 1873, (this year,) the administrator, without any notice, called his council together and made the duty two shillings and sixpence (2*s.* 6*d.*) per gallon on rum, and on tobacco sixpence (6*d.*) per pound, which is about sixty (60) cents per gallon on rum, and twelve (12) cents per pound on tobacco.

At this time I had four vessels on the coast with cargoes averaging nearly full, and have one here just ready to leave. This duty puts an embargo on the whole, and my grievances are that if proper notice had been given, as is customary, I should not have been liable to this loss, which, under the present duty, will be disastrous.

General Butler is here, and Judge Russell thought he would interest himself, and with you see if the matter could not be brought before the home government, to allow time for such an event, as with this duty the government will not gain, but lose; besides injuring the commerce. My whole business is now at a stand-still on the coast, and what is done, you see, should be at once, as my interest is suffering, and will be until some relief is given, and if you will be kind enough to help the matter along you will be doing me great service.

Allow me, &c.,

M. BARTLETT.

I have sent a printed copy of the ordinance to Judge Russell, who will forward it to Washington to-day.

[Inclosure No. 2, with dispatch June 7.]

Collector Russell to Mr. Butler.

CUSTOM-HOUSE, BOSTON, MASS.,
Collector's Office, June 5, 1873.

DEAR GENERAL: The exporters of rum, having been saved once by your efforts, call on you again, as you will see by the inclosed. Mr. Bartlett is a most worthy man, and an intimate friend of Secretary Richardson.

Yours, very truly,

THOMAS RUSSELL.

Hon. B. F. BUTLER

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[Inclosure No. 3, with dispatch of June 7; being also an inclosure of Mr. Bartlett's dispatch to General Butler.]

Mr. Bartlett to Mr. Russell.

BOSTON, *June* 5, 1873.

DEAR SIR: Our merchants trading at ports on the Gold Coast, West Coast of Africa, are being seriously interfered with and damaged by the action of the representatives of the English government at the so-called "West Africa Settlemnets."

Their action at the present time amounts to an embargo on trade, and if allowed to proceed will involve the loss of a large amount of property to the American merchants trading at these ports, and put an end to the American trade.

The trouble is caused by the passing of an ordinance, a copy of which I herewith inclose, placing excessive duties on all importations.

This ordinance was passed without giving any warning to the people in the settlements, or to those engaged in trade there, and as will be seen, was to take effect on and after its passage; and at that time there were on the coast seven American vessels with their outward cargoes and parts of cargoes on board, viz, the ships Susan L. Fitzgerald and Sea-Gull, barks Manchester, Speedwell, Dawn, Wheatland, and Roebuck, having on board in the neighborhood of 387,000 gallons rum and 128 hogsheads leaf-tobacco, on which the duty, as assessed, would amount to about $266,000 gold; besides which, when the news was received here, the barks Sterling and Albertina had sailed from this port, having on board 42 hogsheads tobacco, and about 140,500 gallons rum, and the bark Star King, now loaded with 21 hogsheads tobacco and about 75,000 gallons rum, was loading, and as the cargo in its present condition is unsalable in this market, she must be sent to meet a positive loss.

The action of the government on the Gold Coast is unwarrantable and unjust, and since the cession of the Dutch possessions to the English government in 1868, their whole aim seems to have been to ruin the American trade and the merchants engaged therein.

The first commencement was the levying of a duty, to take effect on the 1st of January, 1868, of a sixpence sterling per gallon on rum, and no duty on any other goods, of which they were kind enough to give a year's warning; after which, between the 1st and 19th of April, 1872, they put on a duty of one shilling per gallon, on rum, and one penny per pound on tobacco, and as, by the great exertions of the natives who met this duty and impoverished themselves, it was overcome, they have now again without warning raised the duty to the present tariff, as per inclosed ordinance, which amounts to an embargo, and threatens not only ruin to the trade, but the loss of a large amount of property now in Africa and on its way there.

The duty is payable in coin, of which but little finds its way to the settlements, and consequently it would be impossible for the natives to meet the duties even were they possessed of enough means in other kinds of property.

The English officials in Africa pretend the necessity of the present tariff on account of the prevailing so-called Ashantee war, which has been brought about by the cession of the Dutch ports to the English, as the Dutch government formerly paid an annuity to the King of Ashantee on account of their possessions, which the English, since taking possession, have failed to do.

The Dutch, when in possession, levied no duties, but the moment the English came into control, our troubles began and have continued to the present fatal position.

It does not appear that the duties which have heretofore been collected have been used for the benefit of the natives, but only as a revenue to the English government, and have been a steady drain on the country.

Cannot this matter be brought before the Secretary of State and something be immediately done to relieve our merchants from their present embarrassed position?

Your obedient servant,

M. BARTLETT.

No. 1.] [1873.

GOLD COAST.

In the thirty-sixth year of the reign of Her Majesty Queen Victoria.

Robert William Harley, C. B., administrator-in-chief of the West Africa Settlements.
[17th April, 1873.]

At a legislative council held in the Palaver Hall, Cape Coast Castle, on the seventeenth day of April, in the year of our Lord one thousand eight hundred and seventy-three.

AN ORDINANCE to make further provision for the service of the settlement during the current year

Whereas it has become necessary to make further provision for carrying on the service of this settlement during the current year, and with that object to alter temporarily the duties of customs upon the several articles herein mentioned,

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Be it therefore enacted by the administrator-in-chief and legislative council of the settlement on the Gold Coast, as follows:

I. From and after the passing of this ordinance the duties specified in the Schedule A hereof, shall be due and payable on the import or removal from bond of the articles therein mentioned, into any part of Her Majesty's possessions on the Gold Coast:

Provided that no duties shall be payable on wines or spirituous liquors, or tobacco removed from bond, for transshipment beyond the settlement.

The articles specified in Schedule B hereof shall be exempted from duty.

II. The value of goods on which *ad-valorem* duty shall be charged shall be ascertained from the invoice-prices of the goods at their ports of shipment:

Provided that if it should appear to the collector, or sub-collector, or other custom-officer, on sufficient information, that the invoice-price is not truly stated, or that any false or fraudulent statement has been made, as to any goods imported with intent to defraud, such goods shall be forfeited.

III. All goods which may be forfeited in terms of the last preceding section shall be sold under directions from the administrator, and the money arising from the sale shall be paid, one moiety into the colonial treasury, and the other moiety to the informer giving information which shall have led to any such forfeitures.

IV. It shall be lawful for the administrator to remit the whole or part of the duties chargeable on any gunpowder or fire-arms imported by any native king or chief of the protectorate, or which he is satisfied has been sold to any such king or chief for defensive purposes.

V. This ordinance shall cease and determine on the thirty-first day of December, one thousand eight hundred and seventy-three, whereupon the "revised-tariff ordinance, 1872" shall *eo ipso* revive and come into full operation.

VI. This ordinance may be cited as the "customs-tariff ordinance, 1873."

Passed in the legislative council this seventeenth day of April, in the year of our Lord one thousand eight hundred and seventy-three.

F. E. BENNETT,
Acting Clerk of Council.

I assent in the name of Her Majesty.

R. W. HARLEY,
Colonel, Administrator-in-Chief.

CAPE COAST CASTLE, *April* 18, 1873.

I certify that the foregoing is a true copy of the original ordinance deposited in the record office.

KEEPER OF RECORDS.

SCHEDULE A.

On wines, ale, porter, or liquors, per old wine-gallon	6*d.*
On spirits, per old wine-gallon	2*s.* 6*d.*
On cigars, snuff, or tobacco in any shape, per pound	6*d.*
On gunpowder, per pound	6*d.*
On guns, each	2*s.*

On all other goods of every kind an *ad-valorem* duty of ten per cent. on the invoice-price.

SCHEDULE B.

Corn, rice, and grain; meal and flour of every kind; biscuits; fresh, salted, and preserved meats, and fish, live stock.

Books and newspapers.

British coins, and other coins in the settlement.

Passengers' luggage.

Puncheon-shooks.

Packages in which goods are usually imported.

General Butler to Mr. Fish.

WASHINGTON, *June* 8, 1873. (Received June 9.)

SIR: Inclosed I send to the State Department a copy of a letter to the Hon. Thomas Russell, collector of the port of Boston, from one of our successful and best merchants, in relation to the action of the British officials on the coast of Africa, imposing tariffs upon merchandise there in contravention of the commonest rights, and as it seems to me, from my limited knowledge upon the subject, without due authority.

You will observe from the statements of the letter, to which most implicit credence

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may be given, that very large American interests are being thus sacrificed to the supposed necessities of an Ashantee war. I believe, after reading the communication, duplicate of which has been referred to the State Department by the honorable the Secretary of the Treasury, you will have no difficulty in coming to the conclusion that the resources of diplomacy, most energetically applied, should be brought into requisition in this behalf.

I have, &c.,

BENJ. F. BUTLER.

[For inclosure, see Mr. Bartlett to Mr. Russell, p. 380.]

Mr. Brooks to General Butler.

BOSTON, *June* 6, 1873.

DEAR SIR: Referring to a letter handed you yesterday by Collector Russell, written by Mr. Matthew Bartlett, a copy of which I herewith inclose, I have to request that if there is any way the matter can be presented to the English government so that it will afford relief to our merchants engaged in trade with the people of the Gold Coast, West Africa, that you will have the kindness to bring all possible influence to bear. The matter is a very serious one to me, having the whole of my property invested in vessels and cargoes now there and on the way.

The English government officials on the Gold Coast have been and are constantly doing all in their power to kill off what little American trade there is left, and the present action in placing equal to an embargo on the trade seems, to say the least, very unjust. I am not sufficiently well informed whether anything under the circumstances could be done by the administration that would prove of benefit, but am satisfied that if you can see any chance to help us you will, as you always have, do all that can be done.

I have, &c.,

JOHN F. BROOKS.

No. 168.

Mr. Fish to General Schenck.

No. 408.] DEPARTMENT OF STATE,
Washington, June 21, 1873.

SIR: It is understood that the Japanese government has officially proposed to the government of His Majesty the King of Italy a provisional arrangement on the following basis:

1st. Italians may circulate freely in the interior of the empire on condition that, on leaving the limits of the consul's jurisdiction, they shall be under the protection and jurisdiction of the territorial authorities, as is the practice in all the countries of Europe.

2d. For this purpose Italians of good character shall individually obtain passports from the minister of foreign affairs and through their own authorities.

3d. In case Italians or their property suffer damage, the Italian government shall have the right to demand reparation in accordance with Japanese laws; but the government shall not interfere in any affairs until the Italian subjects have employed all means in their power to procure justice before Japanese tribunals, and there has been, in cases where there existed no reasonable doubt, an evident refusal of justice.

4th. The government of Japan engages that in case of criminal judgment to be given against Italians, they shall not be subjected to corporal punishment.

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I am informed unofficially, that the proposal, though entertained for a time by Mr. Visconti, is not at present favorably considered by him, and that it is by no means certain that the proposal will be accepted. There may be special reasons why Italians should seek free access to the parts of the interior of Japan where the egg of the silk-worm is prepared for export, could this be done without affecting the position of other foreigners in Japan. The President might look without disfavor on efforts in this direction to gratify them; but it is impossible to shut the eyes to the fact that there is a large party in Japan who regard the ex-territorial right, now possessed by the treaty powers, as a denial of the independence of Japan, and who, availing themselves of aid from any quarter, in shaking them off, will regard the proposed arrangement as a step in that direction. Thus, though it is true that any advantages gained to Italians in this respect must inure, under the provisions of existing treaties, to those of our countrymen who may desire to avail themselves thereof, yet the President is forced to consider the wider question, whether justice is administered in Japan with certainty, equity, firmness, and celerity, and on the basis of such principles of jurisprudence common to Europe and America, as may warrant the surrender of the defensive rights which we now possess.

Japan has had no firmer friend than the United States; no one more ready than we to recognize her rightful autonomy. But, on a candid review of the situation, the President is forced to the conclusion that it is not yet safe to surrender to the local authorities the guaranteed rights of ex-territoriality. We have not such knowledge of the administration of justice in that kingdom, and of the means for the protection of the liberties and rights of foreigners, as would justify such surrender at this time. It appears to us, also, that the welfare, safety, and the interests of all foreigners in Japan are at the present dependent, in a large degree, upon the unity of action and of policy of all the treaty powers, and that the acceptance by any one of those powers of privileges for its own citizens, which may be proposed as an inducement to separate that state from the other treaty powers, in the policy which has heretofore been common to all, would tend to the serious discomfort of all the powers in their future relations with Japan, and would weaken their position in the negotiations which must soon be entered into for the revision of the treaties.

You are therefore instructed to seek an interview with Earl Granville, at which you will communicate to him verbally these views of the President, and will say that Mr. Marsh and Mr. Bingham will be instructed in this sense, and you will endeavor to have similar instructions transmitted to the British minister at Rome and at Japan. Should the government of Great Britain desire to suggest any different action to effect the desired object, you will report it for consideration. But as at present advised, separate instructions and action would appear to be sufficient.

Instructions identical with these (*mutatis mutandis*) are sent to Mr. Washburne, Mr. Bancroft and Mr. Gorham.

I am, &c.,

HAMILTON FISH.

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No. 169.

Mr. Fish to General Schenck.

[Extract.]

No. 411.] DEPARTMENT OF STATE,
Washington, June 24, 1873.

SIR: I give you herewith, for your information, copies of two dispatches addressed to this Department by the consuls of the United States at Malta and Tripoli, respectively, * * which relate to the traffic in slaves between Tripoli and the Levant ports via Malta.*

I am, &c.,

HAMILTON FISH.

Mr. Adams to Mr. Davis.

No. 119.] UNITED STATES CONSULATE,
Malta, June 14, 1873. (Received July 9.)

SIR: Referring to my dispatch No. 102, of January 1, I have now to communicate the result of inquiries, continued since that date, into the alleged existence of the slave-trade between Barbary and the Levant, via Malta.

The Crown advocate, Sir Adrian Dingli, having made a statement in council defending the government in the matter, I called upon him officially, to ask for any information he could give me. He replied to me at length, saying, substantially, that the government had long watched the movement of blacks through Malta; that the rules of the port had been applied with special stringency to vessels arriving from Barbary; that passengers landing from them had been kept under police supervision while here, and when embarking for the Levant, that frequently the police have inquired of the blacks whether they were free or slaves, and whether they wished to proceed with the persons in whose charge they were traveling, informing them at the same time that they were at liberty to go where they chose; finally, that owing to charges made upon the government, he had ordered that the conductors of the first parties of blacks arriving from Barbary should be prosecuted in the police-court for dealing in slaves; that such a trial had been held on November 14, 1872, and no evidence appearing to sustain the charge, the accused persons had been released. Sir Adrian concluded by saying that in his opinion it was doubtful if any traffic in slaves took place through Malta; and that in any event the local government had fulfilled its duty with the approval of the imperial government, the responsibility for the traffic, if any, lying elsewhere. He subsequently furnished to me translations of certain official papers, which are inclosed herewith, viz: examples of inquiries made and reported by the police, and a copy of the judicial proceedings of November 14, 1872.

Mr. Giacomo Psaila, adjutant of the interior police, the prosecutor in the action of November 14, made a statement to precisely the same effect. He is sure the blacks are no slaves, "the relation being without force and voluntary on both sides." Mr. Luigi Aloisio, adjutant of marine police, who has conducted most of the investigations, stated that he has been thirty-two years in the force. Negroes, or Moors, had passed through here from Barbary to the Levant for many years, but the number has been greater since the opening of steam-lines to Barbary. A few come from Benghazi, or other small ports, but nearly all from Tripoli; most of them upon the Turkish steamer Trabulus Gharb of Tripoli, a much less number upon the Turkish steamer Villayet, a few upon other occasional steamers or sailing-vessels of different nationalities. They consist of women and children of both sexes; the language spoken by them is Turkish, Arabic, or Soudanese. They travel in companies of from two or three to ten or fifteen, sometimes being represented as the servants of ordinary passengers, but usually coming in charge of a *padrone* (master) or conductor, who is almost always a Turk of Tripoli or Constantinople. The same padrone who brings them from Barbary takes them to the Levant, no instance of changing masters here having been noticed. Several padroni have been observed to pass repeatedly, always accompanied by blacks, but never by the same blacks. While waiting to re-embark they resort to a lodging-house here kept by a Maltese, licensed by the authorities and under police inspection. They take deck-passage usually on British steamers for Alexandria, Smyrna, or Constantinople, mostly for the last-named port. Having long been suspicious of these persons, he called the attention of the authorities to the subject two years ago, and was ordered to inquire into it and report officially. He finds that the blacks individually, or sometimes the padroni for themselves and their suites, bear a passport from

* See also correspondence on this subject, *post* under the title "Turkish Empire."

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the authorities at Tripoli, or the port whence they arrive, but not viséd by the British consul. Very many blacks have been examined apart individually in Turkish, Arabic, or, when an interpreter could be had, in the tongue of Soudan. There have been one or two occasions where persons have been released from the padroni at their own request, but usually they profess to be free and desirous of continuing with the padroni. The largest number that ever came at one time was fifty-two, who arrived on the Trabulus Gharb, and proceeded in her to Constantinople, the vessel having, as he understood, been chartered for the voyage by the Pasha of Tripoli. His official observations and reports extend from January, 1872. He has reason to believe that formerly many blacks were brought here secretly, not appearing in the lists of passengers. Lately he has noticed that they seemed to have been previously instructed what replies to make to the questions of the police, often declaring before questioning that they are free and wish to go to Constantinople. He has no doubt at all that most of them are slaves purchased in Barbary to be resold in the Levant. I inclose three reports furnished to me by Mr. Aloisio, made by him to his superior officers, and a report of arrivals of Moors (blacks) since February 17, 1872. This last report, he explained to me, is of those who were suspected to be slaves.

Salvatore Borg stated to me that he has kept the lodging-house spoken of by Adjutant Aloisio for five years past. There are arrivals of blacks by nearly every steamer coming from Benghazi and Tripoli, and a few from Tunis. He reports, according to law, every arrival to the police, who frequently inspect his house. He has often talked with the padroni, and the women of his family with the black women, who will not converse with Christian men. To the question whether they were slaves, he replied, "*S'intende, signore,*" but in a later interview declared that he meant only to say they were servants, ("*serve non schiave.*") He had never seen any constraint used by the padroni, who always accompany the blacks, nor any unwillingness in the latter to go with the padroni. Some of the padroni had been at his house several times, each time with a different party.

Amabile Grech, recently agent of the Turkish steamer Villayet, states that the blacks arrive by every steamer, but more in summer than in winter. It is notorious that they are slaves and that the principal person engaged in the traffic is the Pasha of Tripoli.

O. F. Golcher, A. Duncan & Co., A. Camilleri, and other agents of the various lines of British steamers calling here, state that they grant passage to any applicant unless notified by the police that there is a legal impediment upon his departure. They would not take slaves, knowing them to be so, and in a few cases had refused to take parties of blacks; but in general it is no part of their business to inquire into the character or condition of their passengers.

A trustworthy person, J. Azzopardi, whom I have privately employed for two or three months to inquire whether any persons residing in Malta are directly concerned in the traffic, tells me that Mr. L. Farragia, consul for Tunis, and recently for Turkey, is intimate with the padroni, and often aids them to secure passage for the Levant, which is the sum total of his discoveries.

I am inclined to think that the foregoing facts are all that can be discovered here, and probably all that there are. There is really no mystery in the matter, the padroni relying upon their passports and the ignorance and docility of the blacks as a sufficient safeguard. They have evidently been encouraged by the failure of police investigations, and come and go without any attempt at secrecy. I may add, however, that it seems to me that if the object of the authorities has been to ascertain the real character of the traffic, the case has been rather unskillfully managed, little attempt having been made to obtain other testimony than that of the supposed slaves themselves, from whom, owing to their gross ignorance, timidity, and religious scruples, no trustworthy evidence could well be expected; while, even in the rare cases of those who have been released, nothing seems to have been sought for beyond their declaration that they were under constraint and desired to be set free. But I think it quite certain that decisive *proofs* are to be had only at the termini of the route in Barbary, where the blacks are obtained, or in the Levant, where they are finally disposed of. All that can be obtained in Malta is likely to be purely circumstantial evidence, which may be summed up as follows: 1. The movement is entirely in one direction, from Barbary to the Levant, no Moors, or nearly none, going the other way; 2. The Moors are all women or children; 3. There are persons whose regular employment seems to be the conducting of these parties to the east.

Finally, with the exceptions noted above, it is the conviction of all persons whom I have questioned, and, I am assured, the general conviction of the public, that the most of the blacks are slaves; and many persons, official and others, do not fail to comment on the extreme absurdity of the recent mission to Zanzibar, and other costly attempts to suppress on foreign soil or waters a traffic which daily passes in all security through the principal military possessions of Great Britain and under the eyes of her representatives in a dozen different ports of the Mediterranean.

I am, &c.,

LYELL T. ADAMS, *Consul.*

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Abstract of contents of translation annexed of proceedings before the Malta police-court, instituted by Giacomo Psaila, the adjutant of police, on November 14, 1872.

Sworn statement of Adjutant Psaila, presenting Her bin Bubakar, Mohammed Trzeni, Selim bin Ghasciur, and Hmida bin Ibrahim, all arrived from Tripoli by the Trabulus Gharb, for dealing in slaves. The two first had with them 3 female slaves—Hadiga, Zehnia, and Amina. The third 6—Zara, Zara, Fatima, Zara, Zara, and Fatima, or Zara. The last 4—Mizghuda, Mabraka, of 5 years, Salma, an infant, and Hdya. Representations of accused to adjutant, pp. 1–4.

Statements of the accused to the court. They all plead not guilty, pp. 4–9.

Testimony, pp. 10–38.

Mohammed Iscemli, of Tripoli; knows accused personally; women with them not slaves, p. 10.

Angelo Abela, of Malta, and Angelo Borg, of Malta, belonging to the Trabulus Gharb, acted as interpreters when Adjutant Psaila examined accused, and women with them, on the arrival of the Trabulus Gharb. Statements of the conversation, pp. 11–16.

Hdiga, of Tripoli; goes with her daughters to join her son at Constantinople; is not a slave, p. 16.

Amina, her daughter; same statement, p. 18.

Hjenia, sister of Amina; same statement, p. 20.

Zara; is wife of the accused, Selim, p. 22.

Fatima; is sister of Zahra, and no slave, p. 22.

Zara; is daughter of Selim and Zara, p. 24.

Fatima, of Tripoli; no slave; goes to find a place as hired servant at Constantinople. Zara and Zara, born in Soudan; same statement, pp. 25–28.

Fidaga, born in Soudan; goes with Misonda, her sister, to join the latter's husband, p. 29.

Misonda; has been in voluntary service of Pasha, of Tripoli; goes to join her husband, p. 30.

Naounr Duhany, swears to translations of passes borne by Mabraka, Madigia, Ahmet Amish, Selem, Zara, and Mehmett Hamula, for themselves and certain persons with them, pp. 31–38.

Decision of the court; charge not sustained; accused discharged, p. 38.

Proceedings before the Malta police court.

(Translation.)

The 14th day of November, 1872, Adjutant Giacomo Psaila, son of the late Vincenzo, born and residing in Valletta, states on oath in the presence of Her Ben Bubakar Mohammed Fizeni, Selim bin Ghasciur, and Hmida bin Ibraim, the whole being explained to them in Arabic by Elia Sciumama, sworn interpreter:

I have the honor to report to this court that, on the eleventh instant, the Turkish steamer Trabulus Gharb, Capt. Vincenzo Azzopardi, arrived in this port from Tripoli, and that, amongst the passengers, there were these four individuals, whom I present before this court, on a summons, and whose names are Her bin Bubakar, Mohammed Fizeni, Selim bin Ghasciur, and Hmida bin Ibraim; and I charge each of them with dealing in slaves, they having female slaves with them. Her bin Bubakar left Constantinople for Tripoli, bearing a letter from Lies Effendi, which he delivered to the person to whom it was addressed, and he left Tripoli for Constantinople in the company of Mohammed Fizeni, taking with them, and under their charge, on board the said steamer, three female slaves, namely, Hadigia, Zehnia, and Amina, to deliver them to said Lies Effendi at Constantinople. Selim bin Ghasciur embarked at Tripoli in the same steamer, six women named Zara, Zara, Fatima, Zara, Zara, and another whose name is also Zara or Fatima, I do not know which. In regard to the first four, he told me that they composed his family, and in regard to the last two he told me that they had been delivered to him at Tripoli by Seih Ghali, to be delivered by him to Selim Effendi at Constantinople. Hmida bin Ibraim has four women, namely, Mizghuda, Mabruka, a girl aged five years, Salma, an infant, and Hdeja, aged eighteen years, sister of Mizghuda; and he stated that they were placed under his charge at Tripoli by the Pasha, to be delivered by him at Constantinople to the son of the said Pasha, adding that he is a police officer at Tripoli. I produce five *teschere* or passports, or rather passes, relative to the accused and the women mentioned in this report, and two other passports. I request that I may be permitted to produce the evidence in support of my report, in order that, the facts being inquired into, justice may be administered.

GIACOMO PSAILA,
Adjutant.

F. MIZZI, *Mag'te.*

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On the 14th day of November, 1872, the court explained in Maltese to the accused Her bin Bubakar the nature of the charge against him, and warned him that he is not bound to answer any question, or to criminate himself; that he could, if he wished, be assisted by advocates and legal procurators, and that anything he might say could be received in evidence against him. Subsequently the accused, Her bin Bubakar, without being sworn, answered as follows in Arabic, through the sworn interpreter, Elia Sciumama:

My name is Her bin Bubakar; my age is about thirty years; I was born in Bar-el-ghabid; at present in this island en route for Constantinople; I am a domestic servant; the name of my father, who is living, is Bubakar.

Being then asked by the court whether and what he wished to answer, he said in Arabic, without being sworn:

I am innocent.

his
HER BIN + BUBAKAR.
own mark.

F. MIZZI, *Mag'te.*

On the 14th day of November, 1872, the court explained to the accused, Mohammed Fizeni, the nature of the charge against him, and warned him that he is not bound to answer any question, or to criminate himself; that he could, if he wished, be assisted by advocates and legal procurators, and that anything he might say could be received in evidence against him. Subsequently the accused, Mohammed Fizeni, without being sworn, answered as follows, in Arabic, through the sworn interpreter, Elia Sciumama:

My name is Mohammed Fizeni; my age is about twenty years; I was born at Fezzan, and reside at Tripoli; I am a domestic servant; my father's name is Ottman, and he is alive.

Being then asked by the court whether and what he wished to answer, he said, in Arabic, and without being sworn, through the said interpreter:

I am not guilty.

(His signature in Arabic.)

F. MIZZI, *Mag'te.*

On the 14th day of November, 1872, the court explained, in Arabic, to the accused, Selim bin Ghasciur, the nature of the charge against him, and warned him that he is not bound to answer any question, or to criminate himself; that he could, if he wished, be assisted by advocates and legal procurators, and that anything he might say could be received in evidence against him. Subsequently the accused, Selim bin Ghasciur, answered as follows, in Arabic, and without being sworn:

My name is Selim bin Ghasciur; my age is thirty-five years; I was born at Kirkna, and reside at Tripoli; at present in this island en route for Constantinople; the name of my father, who is alive, is Mohammed bin Ghasciur; I am a seaman.

Being then asked by the court whether and what he wished to answer, he stated in Arabic, and without being sworn, through the said interpreter:

I have my family with me, and I am not guilty of the crime with which I am charged.

his
SELIM BIN + GHASCIUR.
own mark.

F. MIZZI, *Mag'te.*

On the 14th day of November, 1872, the court explained, in Arabic, to the accused Hmida bin Ibraim, the nature of the charge against him, and warned him that he was not bound to answer any question, or to criminate himself; that he could, if he wished, be assisted by advocates and legal procurators, and that anything he might say could be received in evidence against him. Then the accused, Hmida bin Ibraim, without being sworn, answered as follows in Arabic, the whole being interpreted in Italian by the sworn interpreter, Elia Sciumma:

My name is Hmida bin Ibraim. My age is thirty-eight years. I was born and reside at Tripoli. I am police officer, charged with the conveyance of the mails. The name of my father, who is dead, was Ibraim.

Being then asked by the court whether and what he wished to say in answer to the charge, he stated in Arabic through the said interpreter:

I am not guilty.

his
HMIDA BIN + IBRAIM.
own mark.

F. MIZZI, *Mag'te.*

The 14th day of November, 1872, Mohammed Iscemli, son of the late Hag-Mustafa, born and residing at Tripoli, stated on oath, in Arabic, in the presence of the accused,

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the whole being explained to the court in Italian by the sworn interpreter, E. Sciumama:

I knew each of the parties accused at Tripoli. They were on board the steamer Trabulus Gharb. Her bin Bubakar and Mohammed Fizeni have three white women, who are proceeding to Constantinople to join the son of one of them. They are not slaves. Selim bin Ghasciur has four women with him—one is his wife, another his daughter, another his wife's sister, and the other a servant. With them there are two others, one of whom had gone to Tripoli from Constantinople, and on his return to Constantinople she is taking her sister with her. Hmida bin Ibraim is a police officer at Tripoli. He is accompanying four women, namely, two sisters, and two little children of one of them. Their said mother had come to Tripoli from Constantinople together with them, and from Tripoli she was now taking her sister to Constantinople. What I have stated I knew at Tripoli, and it was confirmed on board by the parties accused and by the women themselves.

his
MOHAMMED + ISCEMLI.
own mark.

F. Mizzi, *Mag'te.*

On the 14th day of November, 1872, Angelo Abela, son of Felice, born and residing at Cospicua, stated on oath, in Maltese, in presence of the accused, the whole being explained to the said accused in Arabic by the sworn interpreter, Elia Sciumama:

On Monday last the adjutant, Giacomo Psaila, came on board the Turkish steamer Trabulus Gharb, on which I am a seaman, in the great harbor of Valletta, which steamer had arrived from Tripoli. He wished to see all the passengers, and to know to whom they belonged. The accused, Selim, said to the adjutant that four of the women who were on board that steamer composed his family, and that he had been requested to take in his company the other two, who had been intrusted to his care at Tripoli by the shih, to convey them to the son of the same shih at Constantinople. The other accused, Hmida, said that four women had been intrusted to him by the pasha of Tripoli, and that he was to deliver them at Constantinople to the son of the same pasha. The adjutant continued to speak with the passengers, but I left them to attend to my own business, and therefore I can say nothing else. I cannot say what was said by the passengers on board the steamer, because I am ignorant of their language. Neither am I aware of any circumstance from which I can infer that the women who embarked at Tripoli were slaves. Adjutant Psaila obtained the names of the same men-passengers, and of the women from themselves. I and others of the ship acted as interpreters to Adjutant Psaila and the passengers, so far as we understood Arabic; but neither I nor the others know that language well.

Questioned by Selim, in cross-examination, whether the witness is sure that he heard Selim say that those women were directed to the son of the shih, or to Selim Effendi.

Answer. As far as I remember, he said that he was to take them to the son.

his
ANGELO + ABELA.
own mark.

F. Mizzi, *Mag'te.*

Hmida being asked whether he wished to cross-examine the witness, answered in the negative; and the other accused parties also did the same.

his
ANGELO + ABELA.
own mark.

F. Mizzi, *Mag'te.*

On the 14th day of November, 1872, Angelo Borg, son of the late Giovanni, born and residing at Vittoriosa, stated on oath, in Maltese, in the presence of the accused, the whole being explained to them in Arabic by the sworn interpreter, Elia Sciumama:

I am the boatswain of the Turkish steamer Trabulus Gharb, coming from Tripoli to Malta, with goods and passengers. On the arrival of the said steamer in this port Adjutant Psaila went on board and put many questions respecting the passengers. I and Angelo Abela acted as interpreters for him, as far as we understand Arabic. The accused Selem said to the adjutant that four of the women who were on board belonged to him, one being his wife, another his daughter, another his wife's sister, and the fourth his servant. He also stated that he had been charged by a sheik at Tripoli to accompany two women until their arrival at Constantinople, and he was to deliver them to Selem. The other accused, Hmida, said to the adjutant that he was a police officer, charged with the mails, and that two women and two girls had been intrusted to his care by the pasha of Tripoli, and he was to accompany them until their arrival at Constantinople, and there to deliver them to the son of the same pasha.

ANGELO BORG.

F. Mizzi, *Maj'te.*

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The 14th day of November, 1872, Hdigia, widow of Ibraim Effendi, born and residing at Tripoli, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by the sworn interpreter, E. Sciumama:

I have been a widow twelve years. I have three children—two female, and one male, named Lias, who is a clerk in the court at Constantinople. I and my daughters reside at Tripoli, where we live by labor. My son has desired me to join him, in company with his sisters, to live with him at Constantinople, and he recommended the accused Her bin Bubaker to accompany us on the voyage, as he has been an acquaintance of the family a long time. I am not a slave, nor are my daughters slaves, and no one has purchased us. I know that I am free, and my daughters are likewise free. I and they are proceeding to join my son, Elias Effendi, and we desire to continue our voyage. The accused Her has no power over me, nor over my daughters; he is only accompanying us in the voyage, which we are performing of our free will. I brought up the other accused, Mahomed Fizeni, at Tripoli, from his childhood, and as I and my family are proceeding to Constantinople, he is accompanying us to continue living with us at Constantinople, as he did at Tripoli. Neither I nor my daughters in any way depend on the accused, Her and Mohamed Fizeni. The passage-money was sent to me by my son, who called me to him three months ago. He used to send me the money he saved. My said son sent to tell me also, through other persons, that he wished me to join him. I myself gave the money to the accused Her in order to pay for our passage.

her
HDIGIA + IBRAIM.
own mark.

F. Mizzi, *Mag'te.*

On the 14th day of November, 1872, Amina Ibraim, daughter of the late Ibraim, born and residing at Tripoli, at present in this island en route, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by the sworn interpreter, Elia Sciumama:

I lost my father long ago. I have a sister named Leina; my mother's name is Hdigia. My brother, Elias Effendi, a clerk, domiciled at Constantinople, asked us to join him, he being in the habit of assisting us; and we therefore determined to go to him. The accused Her, an old friend of our family, accompanies us in the voyage, and the other accused Mohamed Fizeni, who was brought up with us from childhood, comes with us. I have not been sold, and I know that I am free. I am proceeding to my brother's, in the company of my mother and sister, and I wish to continue the voyage with them. My brother sent the money to my mother for the passage from Tripoli to Constantinople, and she gave the requisite sum to the accused Her to pay for the passage.

her
AMINA + ABRAIM.
own mark.

F. Mizzi, *Mag'te.*

On the 14th day of November, 1872, Hziena, spinster, daughter of the late Ibraim Effendi, born and residing at Tripoli, at present in this island en route, stated on oath, in the presence of the accused, the whole being explained to the court in Italian by the sworn interpreter, Elia Sciumama:

I and my sister Amina lived at Tripoli with our mother, Hdigia. A brother of ours resides in Constantinople, where he is employed as a clerk. He has asked us to go and live with him at Constantinople, and he sent us the requisite sum of money through the accused Her, an old friend of the family, who is to accompany us in the voyage. The other accused, Mohammed Fizeni, who was brought up with us at Tripoli, also comes with us. None of the persons accused has purchased me or my mother or my sister. I am not a slave, and I am well aware that I am free, like my mother and sister. I wish to proceed to the place of our destination. It is true that the said accused persons are accompanying us, according to my brother's instructions, but I do not in the least depend on them. No one has paid any money for the purchase of myself. I am proceeding to Constantinople to join my brother, who wishes to maintain me, as I am his sister; my brother is Elias Effendi.

her
HZIENA + IBRAIM.
own mark.

F. Mizzi, *Mag'te.*

On the 14th day of November, 1872, Zara, wife of Selim bin Ghasciur, born in the Soudan, and residing at Tripoli, stated on oath, in Arabic, in the presence of the accused, the whole being rendered into Italian by the sworn interpreter, Elia Sciumama: I am the wife of the accused Selim bin Ghasciur.

her
ZARA BIN + GHASCIUR.
own mark.

F. Mizzi, *Mag'te.*

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On the 14th day of November, 1872, Fatima, of Mohammed, born in Constantinople, and residing at Tripoli, stated on oath, in Arabic, in the presence of the accused, the whole being explained in Italian by Elia Sciumama, sworn interpreter:

The accused Selim bin Ghasciur is the husband of my sister Zara. I am a spinster; my parents are domiciled in Constantinople. I have been two years at Tripoli in my sister's house, and having determined to change my domicile, I and my sister, together with her husband, daughter, and servant, named Zara, are proceeding to Constantinople, where our parents are living. I am not a slave; no one has paid any money for the purchase of myself. Voluntarily and freely I left in the Trabulus Gharb for Malta, in order to proceed to Constantinople, and go to my parents' house, and I wish to leave this island with my sister and her husband, who is nothing else to us but the head of a family, who is taking us to our father. He paid nothing for me, nor is he to take me to any other place than my parents' house. There were two women on board, one named Zara, and the other Fatima, and they are sisters. They requested my sister to allow them to go in her company to Constantinople to their parents' house, as they could not live any longer at Tripoli. They were not purchased, nor do I know that any money was paid for them. I know that I am free, and wish to proceed on the voyage to Constantinople.

her
FATIMA + MOHAMED.
own mark.

F. Mizzi, *Mag'te.*

The 14th day of November, 1872, Zara, daughter of Selim, born at Bhir-il-Ghabid, and residing in the Irian, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by Elia Sciumama, sworn interpreter:

I am the daughter of the accused Selim, and my mother is Zara. I and my parents, together with my mother's sister, are proceeding from Tripoli to Constantinople, where my mother has her parents. No one has paid any money for the purchase of myself. I wish to go to Constantinople with my said parents.

her
ZARA + SELIM.
own mark.

F. Mizzi, *Mag'te.*

The 14th day of November, 1872, Fatima, daughter of unknown father, of Tripoli, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by Elia Sciumama, sworn interpreter, and interpreted to the witness by Hadigia, widow of Ibraim:

I have been the servant of Aunra, at Tripoli, three years, and am not a slave; and I could leave his service if I pleased to do so. He used to maintain me and give me a salary. Having been requested to send a servant to Siad Ali in Constantinople, to attend to the children, he proposed that I should go to Constantinople, and I voluntarily consented. My new master is also to pay me a salary, besides food and maintenance. I am not a slave, nor has any sum been paid for the purchase of myself. Sidi Amora recommended me to the accused Selim, who is to take me to the place of my destination, and I declare that I freely wish to go with him.

her
FATIMA +.
own mark.

F. Mizzi, *Mag'te.*

The 14th day of November, 1872, Zara, daughter of Selim, born in Constantinople, and residing at Tripoli, at present at Malta en route, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by Elia Sciumama, sworn interpreter:

Up to a year ago I was a salaried servant with Selim in Constantinople, and I remained with him many years. He proposed that I should go and serve in his daughter's house, and I voluntarily consented, and proceeded to Tripoli in the capacity of servant, where I also had a salary. I determined to return to the service of Selim at Constantinople, and for this purpose I embarked on board the Turkish steamer Trabulus Gharb, with recommendation from my mistress to the accused Selim. I am not a slave, and I voluntarily act as servant, and not because I am forced, and I wish to proceed on my voyage.

her
ZARA OF + SELIM.
own mark.

F. Mizzi, *Mag'te.*

The 14th day of November, 1872, Zara, daughter of Ali, born in the Soudan, residing at Tripoli, at present at Malta en route, stated on oath, in Arabic, in the presence of

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the accused, the whole being explained to the court in Italian by Elia Sciumama, sworn interpreter:

I am not the slave of any one. No one has paid any money for the purchase of myself. I left Tripoli on board the Trabulus Gharb with the family of the accused, Selim, as they are going to settle in Constantinople. I am going in search of employment as servant. I know that I am free, and wish to proceed to Constantinople.

her
ZARA ⊥ ALI.
own mark.

F. MIZZI, *Mag'te.*

The 14th day of November, 1872, Fidaja, daughter of unknown father, born in the Soudan, and residing at Tripoli, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by Elia Sciumama, sworn interpreter:

My sister Misonda, residing at Constantinople, who has two daughters, lately proceeded to Tripoli, and I go from Tripoli to Constantinople with her. We left Tripoli on board the Trabulus Gharb. My said sister's husband is at Constantinople. I wish to proceed on the voyage with her, and am not forced to travel. The Pasha of Tripoli recommended my sister to the accused, Hmida, with whom she goes, and I go with her to Constantinople.

her
FIDAJA +.
own mark.

F. MIZZI, *Mag'te.*

The 14th day of November, 1872, Misonda, wife of Abdel-Kader, born at Sukua, residing in Constantinople, stated on oath, in Arabic, in the presence of the accused, the whole being explained to the court in Italian by Elia Sciumama, sworn interpreter:

I and my husband and many of my family are voluntarily in the service of the family of the Pasha of Tripoli, who has a son residing in Constantinople. From Constantinople I left for Tripoli, whence I took my sister Fidaja, with whom I return to Constantinople in the service of the pasha's son. The accused, Hmida, was requested by the Pasha of Tripoli to take charge of me until my arrival at Constantinople. I am not a slave; no one has paid any money for the purchase of myself. I work voluntarily, and live by my labor. When I do not wish to remain any longer in the service of the pasha I can leave it.

her
MISONDA + ABDEL-KADER.
own mark.

F. MIZZI, *Mag'te.*

The 14th of November, 1872, Naum Duhany, son of the late Michele, born in Constantinople, residing at Malta, stated on oath, in Italian, in the presence of the accused, the whole being interpreted to them in Arabic by Elia Sciumama, who is also sworn:

I am able to faithfully translate the seven documents which are shown to me by the court, (alluding to those produced by the adjutant of police, Giacomo Psaila.) The first one, marked Letter A, is of the following tenor:

Permission for traveling.

The Ottoman subject, resident in the capital, of the female sex, named Mabruka, daughter of Adballa, having occasion to leave Tripoli for the capital, the employés of police and others are required to allow her to travel without hindrance, and to afford her all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, Ramasan 4.

Good for the aforesaid person only.

The officer charged with passports at Tripoli, in Barbary:

Chief Araldo. [Seal of the authority.]

The second, marked B, is of the following tenor:

Permission for traveling.

The Ottoman subject, resident in the capital, of the female sex, named Nodigia, daughter of Adballa, having occasion to leave Tripoli for the capital, the employés of police and others are required to allow her to travel without hindrance, and to afford

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her all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, Ramasan 4.

Good for the aforesaid person only.

The officer charged with passports at Tripoli, in Barbary:

Chief Araldo. [Seal of the authority.]

The third, marked Letter C, is of the following tenor:

Permission for traveling.

The Ottoman subject, resident in Tripoli, of Barbary, an employé of police, Ahmet Amish, son of Ibraim, having occasion to leave Tripoli for the capital, the employés of police and others are required to allow him to travel without hindrance, and to afford him all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, 27 Rabiel ul Sani.

Good for the aforesaid person only.

The officer charged with passports at Tripoli, in Barbary:

Special permit.

[Seal of the authority.]

The fourth, marked Letter D, is of the following tenor:

Permission for traveling.

The Ottoman subject, resident in Tripoli, of Barbary, belonging to the tribe of Abassi-named Salem, son of Mehmett, having occasion to leave Tripoli for the capital, the employés of police and others are required to allow him to travel without hindrance, and to afford him all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, Ramasan 7.

Good for his family, composed of four persons—altogether five.

The officer charged with passports at Tripoli, in Barbary:

Chief Araldo. [Seal of the authority.]

The fifth, marked Letter E, is of the following tenor:

Permission for traveling.

The Ottoman subject, resident in the capital, of female sex, named Zara, daughter of Abdalla, having occasion to leave Tripoli for the capital, the employés of police and others are required to allow her to travel without hindrance, and to afford all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, Ramasan 3.

Good for one person only.

The officer charged with passports at Tripoli, in Barbary:

Chief Araldo. [Seal of the authority.]

The sixth, marked Letter F, is of the following tenor:

Permission for traveling.

The Ottoman subject, resident in Scutari, merchant, Mahmud Agha, son of Abdulla Rahman, having occasion to leave Tripoli for the capital, the employés of police and others are required to allow him to travel without hinderance, and to afford him all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, Ramasan 8.

The black woman Fatma, the black woman Mabruka, the son Sait, 4 individuals; good for four only.

The officer charged with passports at Tripoli, in Barbary.

Special permit and guarantee.

[Seal of the authority.]

The seventh, marked Letter G, is of the following tenor:

Permission of traveling.

The Ottoman subject, resident in Tripoli, of Barbary, merchant by profession, named Mehmett Hamuli, son of Haggi Mustafa, having occasion to leave Tripoli, of Barbary, for Alexandria, the employés of police and others are required to allow him to travel without hindrance, and to afford him all needful aid and protection. Wherefore the present permission for traveling has been issued.

Year 1289, Ramasan 8.

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His wife, who is black, his sister, who is black—three individuals—good for other three individuals with him.

The officer charged with passports at Tripoli, in Barbary.

Special permit. [Seal of the authority.]

I state that the said seven documents, from letter A to letter G, have been faithfully translated, in my present deposition, from the Turkish language into Italian.

NAOUM DUHANEY.

F. MIZZI, *Mag'te.*

Criminal court of the magistrates of judicial police for the island of Malta-Valletta.

[Extract from the volume of decisions existing in the said court.]

THURSDAY, 14 *November*, 1872.—Dr. F. MIZZI, Magistrate.—The Police Adjutant Giacomo Psaila *vs.* Her bin Bubakar, Mohammed Fizeni, Selem bin Ghasciur, Hmida bin Ibraim.

The court having examined the acts of instruction against Her Bin Bubakar, Mohammed Fizeni, Selem bin Ghasciur, and Hmida bin Ibraim, decides that there is not sufficient ground for committing the accused for trial, and therefore discharges them, and directs that the acts of instruction be, within three days, transmitted to the crown advocate.

G. XERRY, *Clerk.*

True copy:

ANT. VASSALTO, *Registrar.*

[Copy.]

POLICE OFFICE, *Valletta, February* 23, 1872.

SIR: In compliance with your directions I have the honor to report that on the 17th instant, immediately on the arrival of the steamer Trabulus Garb from Tripoli, it having been stated to me that several black women and two boys were on board of her, and that a passage for Constantinople was being procured for them, I proceeded on board to verify whether they were slaves, and I found that nine females of different ages and two boys, some of whom spoke the Arabic and some the Turkish language, were on board. Although the former fully understood the Maltese, yet, the cause of my visit to them being of paramount importance, I considered myself bound in duty to employ a person who could speak both their languages in order to convey to them with greater facility and precision the good intentions of the British Government in regard to slavery, and, consequently, through the interpretation of one Francesco Sultana, I requested them to inform me whether they were slaves, and, in the affirmative, if they were willing to gain their freedom and remain in the island in an asylum which government would provide until an occupation could be provided for them. In answer to these proposals they one and all declared that they were free, and had been a long time in the service of their respective masters, and would not leave them, they having been always, and under every circumstance, well treated by them.

The adjutant of marine police, previous to my arrival on board, had already paid them a visit for the same object.

I have the honor to be, sir, your most obedient servant,

GIACOMO PSAILA, *Adjutant.*

R. BONELLO, Esq., *Superintendent of Police, &c.*

POLICE OFFICE, *Valletta, October* 30, 1872.

SIR: I have the honor to report, for your information, that, in accordance with your instructions, on the arrival of each of the vessels mentioned in the accompanying list, I proceeded on board, and, in the presence of Acting Inspector Gerada and Sub-Inspectors Staines and Inglott, through an interpreter employed on each occasion, I obtained the following answers from the persons marked in column No. 4 of said list, whom I have, in compliance with the said instructions, individually and separately examined, viz: "That they embarked at Tripoli, and came to Malta of their own free will, and were proceeding to Stamboul of their own free will;" each expressing herself in the following words, which I fully understood: "Iena inhopp inruh fi Stamboul;" meaning, "I like to proceed to Stamboul." And, on being asked whether on board there was any one who was their master, or if on arrival at Stamboul there would be any one who would be their master, they each answered negatively.

I have further to add that several of those women were accompanied by men who

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from their dress and demeanor, appeared to belong to the better classes, and who seemed to exercise some influence on those women. These men, questioned on their relation to those women, answered that the latter were their wives, and this circumstance was confirmed by the women when again questioned by me on the subject.

I have the honor to be, sir, your most obedient servant,

L. ALOISIO, *Adjutant.*

R. BONELLO, Esq.,
Superintendent of Police, &c.

Report of Moors, (suspected to be slaves,) arrived at Malta as stated hereunder.

Date of arrival.	Name of vessels.	From whence.	No. of Moors.
1872.			
June 21	Ottoman steamship Trabulus Garb	Tripoli	16
July 15	British bark Em'le Scioluna	do	8
18	Ottoman steamship Trabulus Garb	do	30
30	British steamer Abeasis	do	25
31	Ottoman steamship Trabulus Garb	do	17
Aug. 17	British steamship Raffael	do	26
Sept. 3	Ottoman steamship Trabulus Garb	do	52
Oct. 4	do	do	25
23	Ottoman brig Mahalla	do	8
24	Ottoman steamship Trabulus Garb	do	20

L. ALOISIO, *Adjutant.*

POLICE OFFICE, VALLETTA, *October* 30, 1872.

[Translation.]

OFFICE OF THE MARINE POLICE,
Custom-House, October 28, 1871.

MOST ILLUSTRIOUS SIR: I have the honor to inform you that, according to standing orders relative to the Moorish slaves who occasionally pass through this port for the Levant, during the last three months I have had occasion, upon the arrival of the following steamers from Tripoli, to suspect that among the number of individuals who are described in the margin, over against the names of the respective steamers, were (some who were) slaves, and accordingly I have conferred with them in the place hereunder indicated, and have caused to be explained to them, through an interpreter, that under the British rule they enjoyed emancipation if they chose to avail themselves of such privilege, to which they replied to me with an absolute refusal of wishing to prosecute their journey to Constantinople.

I have examined in the post-office 16 individuals arrived by the Trabulus Garb.

In the lodging-house Strada S. Ursola Valletta, 8 individuals arrived by the Abeasis.

On board the English steamer Mary, 2 individuals.

I have the honor, &c.,

L. ALOISIO, *Adjutant.*

To the most illustrious Mr. G. PSAILA,
Adjutant of Police, &c.

N. B.—The literal translation of the last sentence of the original misstates the fact. As explained to me by Adjutant Aloisio it should be fully rendered thus: "To which they replied to me with an absolute refusal (to accept their freedom and a declaration) of wishing to prosecute their journey to Constantinople."

LYELL T. ADAMS.

[Translation.]

OFFICE OF THE MARINE POLICE,
Custom-House, April 17, 1872.

MOST ILLUSTRIOUS SIR: I have the honor to inform you that yesterday at about 10 p. m. the Ottoman steamer Trabulus Garb, Captain V. Azzopardi, arrived in this port from Tripoli, and had among her passengers three slave women, accompanied by their masters, described in the list of passengers as their wives, to whom I said distinctly that in the British dominions they enjoyed the privilege of emancipation.

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Zatima, of about 18 years of age, belonging to Musa bin Ahmed, asked to be emancipated. She was delivered from slavery, and sent back to Tripoli. The other two refused to be emancipated, and continued their journey to Constantinople.

I have the honor to be, sir, your most obedient servant,

L. ALOISIO,
Adjutant.

To the very illustrious Mr. R. BONELLO,
Superintendent of Police, &c.

MARINE POLICE OFFICE,
Valletta, 30 *Ottobre*, 1873. (1872.)

SIR: I have the honor to report for your information that on the arrival of each of the vessels mentioned with your instruction, I proceeded on board, and in the presence of Acting Inspector G. Gerada, and Sub-Inspectors S. Staines and Inglott, through an interpreter employed on each occasion, I obtained the following answers from the persons marked in the column No. — of said list, whom I have, in compliance with the said instructions, individually and separately examined, viz: That embarked at Tripoli and came to Malta of their own free will, and were proceeding to Stambul of their own free will, each expressing herself in the following words, which I fully understood, "Iena introp in-ruh fi Stambul," (meaning, "I like to proceed to Stambul,") and on being asked whether on board there was any one who was their master, or if on arrival at Stambul there would be any one who would be their master, they each answered negatively. I have further to add that several of those women were accompanied by men who from their dress and demeanor appeared to belong to the better classes, and who seemed to exercise some influence on those women. These men, questioned on their relation to those women, answered that the latter were their wives, and the circumstance was confirmed by the women when again questioned by me on the subject.

I have the honor to be, sir, your most obedient servant,

L. ALOISIO,
Adjutant.

R. BONELLO, Esq., *Sup. of Police, &c.*

Report of Moors arrived at Malta as stated hereunder, that is, of those suspected of being slaves.

Date of arrival.	Names of vessels.	From whence.	No. of Moors.
Feb. 17, 1872	Ottoman steamship Trabulus Gharb	Tripoli	11
Mar. 16, 1872	British steamship Abeasis	do	.....
Mar. 31, 1872	Ottoman steamship Trabulus Gharb	do	.....
April 16, 1872	British steamship Abeasis	do	.....
May 3, 1872	Ottoman steamship Trabulus Gharb	do	5
May 13, 1872	British steamship Abeasis	do	8
May 20, 1872	Ottoman steamship Trabulus Gharb	do	8
May 22, 1872	British steamship Eri Cunning	Constantinople	1
June 7, 1872	British steamship Ris Noris	Tripoli	13
June 9, 1872	Ottoman steamship Trabulus Gharb	do	30
June 21, 1872	..... do	do	16
July 18, 1872	..... do	do	30
July 15, 1872	British bark Emm'l Scielura	do	8
July 30, 1872	British steamer Abeasis	do	25
July 31, 1872	Ottoman steamship Trabulus Gharb	do	17
Aug. 17, 1872	British steamship Raffaeli	do	26
Sept. 3, 1872	Ottoman steamship Trabulus Gharb	do	52*
Oct. 4, 1872	..... do	do	25
Oct. 23, 1872	Ottoman brig Maschalli	do	8
Oct. 24, 1872	Ottoman steamship Trabulus Gharb	do	20
Nov. 11, 1872	..... do	do	20
Jan. 12, 1873	Ottoman steamship Villayet	do	2
Mar. 11, 1873	Ottoman steamship Trabulus Gharb	do	5
April 7, 1873	..... do	do	6
April 17, 1873	..... do	do	1
May 1, 1873	..... do	do	3
May 8, 1873	Ottoman steamship Villayet	do	4
May 22, 1873	Ottoman brig Masciallis	do	3
May 22, 1873	Ottoman steamship Trabulus Gharb	do	14
	Total		361

*Report dated October 30, 1873, (1872.) Inclosure No. 5 refers to this arrival principally. (See also Inclosure No. 2.)

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Mr. Vidal to Mr. Davis.

No. 38.] UNITED STATES CONSULATE,
Tripoli, Barbary, March 22, 1873. (Received April 29.)

SIR: I have the honor to acknowledge the receipt, this day, of your dispatch No. 22, informing me that it would be desirable to put the Department in possession of more explicit facts in regard to the slave traffic between Tripoli and Constantinople via Malta. When it is considered that a consul in Mussulman countries can neither take testimony from any but his own protegés, nor apply to any colleague or Mahomedan magistrate to make an affidavit in cases in which his protegés are not concerned, the Department will readily appreciate how difficult it would be for me to produce any judiciary proofs in support of the statements contained in my dispatch No. 27. Moreover, I beg to remind the Department that most of those slaves exported from here are females, and that it is positively forbidden by the laws and usages of the country that a Christian man should speak to a Moslem woman.

Nevertheless, I don't say that it would be impossible to give the satisfactory algel proofs, only it might take time; it would require a certain outlay of money which I am not authorized by the Department to spend; and I should have leave to move as I think proper, between Tripoli, Malta, Constantinople, and Smyrna. But first may I be allowed to ask what fact the Department would wish me to prove. Is it that there are negro slaves imported from countries without the pale of the Turkish sovereignty, and bought and sold either here or in Constantinople? I can, at a fortnight's notice, have two or three scores of those unfortunate beings purchased at prices ranging from $24 to $36 a head, put on board a vessel and shipped for any country in the world. But what would that prove? I could not make an affidavit against myself; and were one of my employés to buy those slaves himself, I might establish his own guilt, but not that of any one else.

But perhaps it would be more interesting to prove that those slaves are imported through Malta and, for all we know, that they change hands in that British island. It is not to be forgotten that by virtue of Article I of our treaty of 1862 with Great Britain, the reciprocal right of search and detention can be exercised, near the coast of Africa, only "to the southward of the thirty-second parallel of north latitude," and that Tripoli is considerably north of that line.

Were I to follow a lot of slaves as far as Malta, I would wish to be authorized to act without connection with our consulate in that island, for the following reason: The climate of Soudan being so much hotter than that of Constantinople, the negro slaves from the interior of Africa are generally exported to Turkey in summer time, in order that the change of climate should be less trying to them. Now during those summer months our consul in Malta is compelled, on account of ill health, to leave the consulate in charge of a gentleman who is a very active and able person, who knows everything that goes on in the island, and is perfectly well aware that there are thousands of slaves carried from Barbary to the Bosphorus, via that British possession. But he is an Englishman; he never put his foot in our country, and to him the political interest of the United States is as nought, while he feels, of course, as all Englishmen do, the liveliest sympathy for the good name of his own country and government.

There is not an Englishman here, in Malta, or in Turkey, who does not know as well as I the existence of the traffic I am now denouncing. The newspapers of Europe have all said something about it; telegrams in regard to that trade have been sent from Constantinople to the four quarters of the continent; but I never heard till this afternoon of an Englishman, in authority in these countries, moving one finger to put an end to that shameful traffic.

But, this very afternoon, by a coincidence which I am at a loss to explain, one of the interpreters of the British consulate, who lives out of the city, very near the seashore, happening to see, by chance, a few black children, who were crying as they were put on board a boat, which took them directly to a brig just in the act of weighing anchor, took his horse, rode with all speed to the British consulate, reported what he had seen; the consul-general communicated the information to the governor-general; the latter sent, in all haste, a custom-house boat after the brig, and, twenty miles from port, as the wind was against her, they caught her. She proved to be the Ottoman brig Malmaison—captain, Ali Salah—which was on her way to Malta, with a cargo of barley and four or five negro slaves as passengers. The vessel was taken back to port, her captain arrested, and an investigation made at once. It was ascertained that one of those slaves was a young girl kidnapped from her mother two or three days before, and another one belonged to the harbor-master himself. In the evening the master of the brig was authorized to proceed to Malta, and the captain of the port was dismissed; so, at least, it is reported. This fact will go far to prove, at any rate, that slavers from Tripoli to Constantinople are not afraid to take the way of Malta. It is also rumored that the authorities in that island will henceforth exert the greatest vigilance in regard to that trade. If such is the case, I cannot understand why they should this

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very time be so strict, while they have for more than twenty years willingly shut their eyes. Nor can I understand the secret spring of the action of the British consul here, and the governor's; for those gentlemen, all at once so much interested, in appearance, to suppress the slave-traffic, knew since their arrival here of its being extensively carried on, and never, to my knowledge, attempted to interfere.

However, it may be stopped for a while, for a purpose now unknown to me; but it will soon revive; and it becomes the United States Government, supported, as it is, by four millions of black citizens, to place itself before the civilized world as the special protector of the African race.

Now, it is publicly known here that nearly every Turkish officer or functionary who leaves this place for Constantinople, or sends his family to Turkey, will not fail to improve every one of those opportunities, by sending along a lot of slaves intended for sale. But the worst negro-trafficant in Tripoli is a Moor, to whom I alluded in my dispatch No. 35, as having assisted the pashas of this regency in grinding the people with oppressive taxes. He is the owner of the *Trabulus Gharb*, a steamer which plies pretty regularly between Malta and this port. At every trip, just one or two minutes before the vessel is ready to start from this port, a number of women, carefully shrouded in their blankets, wearing stockings, so that the color of their feet cannot be seen, hiding their hands in the folds of their *baracans*, and with the head entirely wrapped in a thick colored handkerchief, leave the quay under the care of a man. They are put in a boat belonging to the Moor, and brought on board the steamer. During the journey, no one is allowed to speak to those mysterious beings; and at Valetta, instead of going on shore, as all other passengers do, they remain on board the steamer until they can be taken to another one, just weighing anchor, for Constantinople; or a sailing-vessel, belonging, too, to the Moor, is just at hand to receive them.

I will not conclude this letter without informing you that I was told by a merchant, just arrived with a Ghadames caravan, that the Sultan of Borgoo, or Dâs-sali-Wadâi, having just successfully invaded the neighboring territory of Bagharmi, enslaved all its population, and carried them away to his own country; in consequence we may expect to see slaves of that kind as cheap as sheep, for some time to come, in Cairo and Constantinople. The invaded territory is comprised between the 13th and 10th degrees of north latitude, and the 39th and 40th degrees of the East Farœ longitude. The conqueror reigns in the territory situated between the Bagharmi in the east and the Dâr-foor's land in the west.

Awaiting your instructions in regard to that question,

I am, &c.,

M. VIDAL, *United States Consul.*

No. 170.

General Schenck to Mr. Fish.

No. 438.] LEGATION OF THE UNITED STATES,
London, July 3, 1873. (Received July 18.)

SIR: In my 399 and 415 I gave you information as to the resumption of our negotiations here for a consular convention, and communicated to you a copy of a note relating thereto, received from Lord Granville, dated the 17th of May last.

I am sorry to say now that there does not appear to be a prospect of making any immediate progress in the matter. I have had conversation again two or three times with his lordship, the last occasion being to-day.

He informs me that no time is being lost in the endeavor of Her Majesty's government to carefully consider the subject and to prepare for a satisfactory adjustment of all the questions it involves. He assures me that he appreciates fully the importance, if not the necessity, of settling the terms of an agreement on all the points that may arise between the two countries. These points and questions, he says, have been referred to and are under examination by the board of trade, the department having cognizance of commercial affairs, and have been and still are being discussed in the cabinet; in the mean time, the ex-

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isting law in Great Britain being defective in scarcely containing any provisions in regard to the powers of foreign consuls within her territory and jurisdiction, or for the regulations which may be prescribed or agreed to by Her Majesty's government for defining and settling those powers, Lord Granville further informs me that they must propose some general legislation which is needed to give all the necessary authority. When this is obtained, they expect to be prepared, and will be willing, to proceed and conclude conventions with the United States, as they will, perhaps, with other powers, covering the whole ground. But the present session of Parliament is now so near its close, a prorogation being expected by the end of this month, they will not be able to present a bill or ask for legislative action until next year.

This explanation and assurance is all I can at present obtain, although I have continued to press the subject on his lordship's attention. But in the interval, and perhaps ere long, Lord Granville thinks he may be ready to communicate to me the counter-project for which we have been waiting.

In like circumstances and on like conditions, I am told, is pending the negotiation for a consular convention between Brazil and Great Britain.

I have, &c.,

ROBT. C. SCHENCK.

No. 171.

General Schenck to Mr. Fish.

No. 440.] LEGATION OF THE UNITED STATES,
London, July 5, 1873. (Received July 22.)

SIR: Referring to your confidential dispatch 400, I have to inform you that on the 1st instant, being in conversation with Lord Granville, the subject of the proposed joint note to the maritime powers relative to the three rules under the treaty of Washington was mentioned, and I drew from him a statement of his view of the present position of the correspondence. He said that Sir Edward Thornton had expressly reported that he not only read to you but communicated to you a copy, in writing, of the instructions which were sent to him from here, in answer to your note addressed to the British legation at Washington. This his lordship said he certainly considered as, in usage if not technically, equivalent to the delivery of a note in reply addressed directly to yourself. Precedents were referred to to sustain this view of the practice often prevailing in diplomatic correspondence.

Lord Granville thinks, therefore, that he may expect and await, as the next step in this matter, your response to or comments on his communication made through Sir Edward Thornton.

I immediately after the conversation telegraphed the substance of it to you, and I transmit herewith a copy of that telegram.

I have, &c.,

ROBT. C. SCHENCK.

[Inclosure.—Telegram.]

General Schenck to Mr. Fish.

LONDON, *July* 1, 1873.

Respecting note to maritime powers, Lord Granville understands that Thornton not only read to you, but gave you a copy of his instructions, and regards this as in usage equivalent to a written answer by note.

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No. 172.

General Schenck to Mr. Fish.

No. 448.] LEGATION OF THE UNITED STATES,
London, July 16, 1873. (Received July 30.)

SIR: On Monday, the 14th instant, I had an interview with Earl Granville at the foreign office, and brought to his notice the ruinous influence on the trade to the British settlements on the Gold Coast of Africa, occasioned by the late increase there, without notice, of the duty on rum and tobacco, of which you had given me information in your No. 401. Aided by the papers communicated from the Treasury Department at Washington, of which copies were inclosed in your dispatch, I was enabled to specify and explain the disastrous effect of this measure on the business of Mr. Bartlett, of Boston, and perhaps other regular traders to that coast. I represented the particular hardship to those who had cargoes on the way, and claimed that, apart from any possible question of the legality of the order of council, some redress or relief was justly due to those who were taken by surprise and suffered from the change of tariff made in this unusual way without warning or notice.

Lord Granville asked me if it was the practice in the United States to give notice in such cases. I informed him that it certainly was; that any legislation of Congress providing for a material increase or decrease of duties on imports was either made prospective, as to the time of its taking effect, or accompanied by some condition protecting *bona-fide* shippers and dealers as far as practicable, or to some reasonable extent, from loss by the alteration of the law. His lordship said he thought that to prevent hurtful speculation during an interval between the passage of a tax law and its going into operation, the opposite course was generally pursued by Great Britain. However, after some discussion of the proper policy and of the grievance complained of in this instance, he made a note of the facts and views I presented, and promised to bring the matter without delay to the attention of the appropriate department of Her Majesty's government for consideration and their decision.

I have to remark to you, though, that perhaps a new element has ere this entered into the case of Mr. Bartlett and the other parties concerned. The progress of the war waged by the Ashantees against the British settlements on the Gold Coast and the destruction of Elmira and the region of country acquired by Her Majesty's government from the Dutch may have broken up altogether or otherwise seriously affected the trade in question.

I have, &c.,

ROBT. C. SCHENCK.

No. 173.

General Schenck to Mr. Fish.

No. 449.] LEGATION OF THE UNITED STATES,
London, July 16, 1873. (Received July 30.)

SIR: Your No. 411, with copies of two official dispatches from the consuls of the United States at Malta and Tripoli, and of an unofficial

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communication from the former relating to the traffic in slaves between Tripoli and the Levant ports, via Malta, and sent to me for my information, was received on the 7th instant.

Although not instructed to approach Earl Granville on the subject, yet a convenient occasion presenting itself, in an interview with him a few days since, the continued existence of such a slave traffic and the circumstances under which it is carried on were casually discussed between us. I thought it might be well to ascertain how far attention here had been given to the matter.

His lordship said it had been much under consideration and was a subject of frequent instruction to, and correspondence with, British officials. He assured me that Her Majesty's government desired always to do all that is possible to put an end to such trade. With this view they were glad to know of any supposed evasions of British law, or any lack of vigilance at Malta, that might interfere with any discovery or suppression of the practice on the part of illicit traders. He remarked that one great difficulty encountered was the consenting spirit with which many of the women from Tripoli were ready to go into Turkish slavery.

I gave his lordship afterward, confidentially, some extracts from the official statements of our consuls at Malta and Tripoli, taking care, however, to confine what was furnished him to those portions only of their reports which related to the manner of smuggling the slaves past Malta.

I have, &c.,

ROBT. C. SCHENCK.

No. 174.

General Schenck to Mr. Fish.

No. 455.] LEGATION OF THE UNITED STATES,
London, July 19, 1873. (Received August 5.)

SIR: I have had an interview with Lord Granville, and a very satisfactory conversation with him about the proposed agreement of Japan with Italy, which formed the subject of your No. 408.

I stated to his lordship, as instructed by you, the views of the President. I spoke of the necessity of unity of action on the part of the treaty powers, and of the probable danger to the future interests of all if one state should separate itself in its policy, or by exceptional engagements or privileges, from the rest. On all points I found Lord Granville entirely in accord with you and with the President. He had already obtained information of the movement; had expressed the objections of Her Majesty's government to Mr. Cardona, the minister from Italy to this court, who was then here but has just gone home on leave of absence; and had given instructions to the diplomatic representatives of Great Britain in harmony with those you suggest.

Lord Granville's understanding is, that the offer from Japan was drawn out by advances made, in the first place, on the part of Italy; but he also understands, from his conversation with Mr. Cardona and from other sources, that the proposed arrangement is not likely now to be followed up to any completion.

Lord Granville had also received from Mr. Cardona a statement of the terms of the provisional arrangement proposed by Japan. It is in

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French, and being collated with that which is contained in your dispatch, the two are found to correspond, with the exception of the fourth paragraph, in which the words "corporal punishment," given in your copy, stand as "*peines cruelles*," (torture,) in the French version.

I have, &c.,

ROBT. C. SCHENCK.

No. 175.

General Schenck to Mr. Fish.

No. 464.] LEGATION OF THE UNITED STATES,
London, August 5, 1873. (Received August 21.)

SIR: In my No. 438 I referred to the information given me by Lord Granville, that Her Majesty's government were of opinion that it would be necessary to have some special legislation before they could conclude definitely any consular convention; and that such an act could not be expected to be passed during the present session of Parliament.

Some days afterward I suggested to his lordship that it would be more satisfactory, as at least an indication of progress toward the accomplishment of our desired understanding, and at the same time as an explanation, if he would make some declaration on the subject from his place in the House of Lords. This he readily assented to, and said it could be done, and he would do it, by arranging to have some peer interrogate him on the subject.

Two or three weeks more having gone by without any question or motion relating to the matter, and finding yesterday that Parliament was on the eve of prorogation, I called to remind Lord Granville of his promise. I found he had not forgotten it. He showed me the printed notice of an interrogation on the subject to be made by Lord Houghton. That interrogatory was put last night by Lord Monson, (in behalf of Lord Houghton, who was absent,) and I send you herewith a report of the proceedings, extracted from the Times of this morning.

In his reply you will observe that Earl Granville refers to "a paper which has been prepared embodying the whole question." That "paper" has not yet been furnished me, but his lordship told me in our conversation yesterday that he might ere long have some communication to make to me covering, as he hoped, the whole ground.

I have, &c.,

ROBT. C. SCHENCK.

[Inclosure.—From the Times, Tuesday, August 5, 1873.]

MARITIME JURISDICTION.

Lord Monson (on behalf of Lord Houghton) asked the secretary of state for foreign affairs whether any steps had been taken toward concluding a consular convention with the United States of America, and whether he was prepared to include in such a convention the means of effectively punishing acts of violence committed by the subjects of either nation on the high seas. Earl Granville said the matter had occupied the attention of the government for a very long time, and the difficulty in concluding a convention had been the necessity of some preliminary legislation on our part. Cor-

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respondence had gone on with several countries, especially with the United States, for twenty years. A memorandum, embodying the views of Her Majesty's government, led, some years ago, to a proposal by the United States for a convention; but difficulties arose, principally respecting the question of jurisdiction. The negotiation dropped, and had not been formally renewed with the United States; but there had been some informal communications between Sir Edward Thornton and Mr. Fish, and between General Schenck and himself. They had made some progress in the matter, and a paper had been prepared embodying the whole question. The foreign office was in communication with other departments of the government, and he had hopes that some agreement would be arrived at during the recess which would form the basis of legislation next session, though he could give no absolute pledge. Of course, in any such scheme, acts of violence at sea would form an important element. Progress had also been made in another way; for by the eleventh section of the merchant shipping bill of this session the government were empowered, by order in council, to extend to those countries which desired it the provisions of the merchant shipping acts with regard to the enlistment and discharge of seamen. He was not, therefore, without hopes that some progress would be made in a question of considerable importance both to foreign countries and to ourselves. He might add that it was absolutely necessary that something should be done, for an article in the treaty of commerce with France, concluded last month, provided that this was one of the subjects which would form part of a supplemental convention.

No. 176.

Mr. Fish to General Schenck.

No. 427.] DEPARTMENT OF STATE,
Washington, August 12, 1873.

SIR: Your dispatch No. 440, of the 5th ultimo, has been received. The Department has been surprised at the statement of Lord Granville, to which it refers, that the communication by Sir Edward Thornton of a copy of his instructions upon the subject of the joint note to the maritime Powers, provided for by the Treaty of Washington, should be regarded as a reply to my note to Sir Edward on that subject. With due deference to the larger experience of Her Majesty's foreign office on such subjects, it had here been supposed that a reply to a note, to entitle it to be regarded as official or binding on the party which makes it, should be in the same form as the note to which it may purport to be an answer.

Awaiting a reply of that character, the subject has remained in suspense.

I am, &c.,

HAMILTON FISH.

No. 177.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *December* 4, 1872. (Received December 5.)

SIR: I have the honor to inclose for your information a certified copy of the act of the legislature of Canada relating to the Treaty of Washington of May 8, 1871.

I have, &c.,

EDW'D THORNTON.

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AN ACT relating to the treaty of Washington, 1871.

Whereas by article thirty-three of the treaty between Her Majesty and the United States of America, signed at the city of Washington on the 8th day of May, 1871, it is provided that articles eighteen to twenty-five, inclusive, relating to the fisheries, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other, and that such assent having been given, the said articles shall remain in force for the term of years mentioned in the said article thirty-three; and whereas it is expedient that the laws required to carry the said treaty into effect as respects Canada should be passed by the Parliament of the Dominion: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The act of the Parliament of Canada, passed in the thirty-first year of Her Majesty's reign, chapter 61, intituled "An act respecting fishing by foreign vessels," and the act of the said Parliament passed in the thirty-third year of Her Majesty's reign, chapter 15, intituled "An act to amend the act respecting fishing by foreign vessels," and the act of the said Parliament passed in the thirty-fourth year of Her Majesty's reign, chapter 23, intituled "An act further to amend the act respecting fishing by foreign vessels," and the 94th chapter of the Revised Statutes of Nova Scotia (third series) intituled "Of Coast and Deep-Sea Fisheries," and the act of the legislature of Nova Scotia, passed in the twenty-ninth year of Her Majesty's reign, chapter 35, amending the same; and the act of the legislature of New Brunswick, passed in the sixteenth year of Her Majesty's reign, chapter 69, intituled "An act relating to the coast-fisheries, and for the preventing of illicit trade," so far as the said acts of the legislatures of Nova Scotia and New Brunswick, respectively, apply to any case to which the said acts of the Parliament of Canada apply, shall be, and are hereby, suspended as respects vessels and inhabitants of the United States of America engaged in taking fish of every or any kind except shell-fish on the sea-coasts and shores, and in the bays, harbors, and creeks of the provinces of Quebec, Nova Scotia, and New Brunswick, as shall also all acts, laws, or regulations (if any) over which the Parliament of Canada has control, which would in anywise prevent or impede the full effect of the said article eighteen.

2. Fish-oil and fish of all kinds, (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States, shall be admitted into Canada free of duty.

3. Goods, wares, and merchandise arriving at any of the ports of Canada, and destined for the United States of America, may be entered at the proper custom-house, and conveyed in transit, without the payment of duties, through Canada, under such rules, regulations, and conditions, for the protection of the revenue, as the governor in council may from time to time prescribe, and under like rules, regulations, and conditions, goods, wares, and merchandise may be conveyed in transit, without payment of duties, from the United States, through Canada, to other places in the United States, or for export from ports in Canada.

4. Citizens of the United States may carry in United States vessels, without payment of duty, goods, wares, and merchandise from one port or place in Canada to another port or place in Canada, provided that a portion of such transportation is made through the territory of the United States by land-carriage, and in bond, under such rules and regulations as may be agreed upon between the government of Her Majesty and the Government of the United States.

5. The foregoing sections of this act shall come into force upon, from, and after a day to be appointed for that purpose by a proclamation based upon an order of the governor in council, and shall remain in force during the term of years mentioned in article thirty-three of the said treaty.

No. 178.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *January* 24, 1873. (Received January 25.)

SIR: With reference to my note of the 4th ultimo, inclosing, as another legislative document connected with the Treaty of Washington, of May 8, 1871, a certified copy of an act of the legislature of Canada, I have now the honor to forward herewith, in connection with that treaty, for

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your information, a copy of the act passed on the 6th of August last by the Parliament of the United Kingdom to carry into effect the said treaty between Her Majesty and the United States of America, as regards the British Colonies in North America.

I have, &c.

EDW'D. THORNTON.

AN ACT to carry into effect a treaty between Her Majesty and the United States of America. [6th August, 1872.]

Whereas a treaty between Her Majesty and the United States of America was signed at Washington on the eighth day of May, one thousand eight hundred and seventy-one, and was duly ratified on the seventeenth day of June of that year, which, among other things, contained the articles set out in the schedule to this act:

And whereas an act intituled "An act relating to the Treaty of Washington, 1871," has been passed by the Parliament of Canada for the purpose of carrying into operation the said articles:

And whereas an act intituled "An act relating to the Treaty of Washington, 1871," has been passed by the legislature of Prince Edward's Island for the purpose of carrying into operation the said articles:

And whereas the Congress of the United States of America have not as yet passed any act for carrying into operation on the part of the United States the said articles:

And whereas it is expedient to make provision by act of Parliament for carrying into operation the said articles:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. As soon as the law required to carry into operation, on the part of the United States of America, the articles set out in the schedule to this act has been passed by the Congress of the United States, and come into force, all acts of Parliament and laws which operate to prevent the said articles from taking full effect shall, so far as they so operate, be suspended and have no effect during the period mentioned in the article numbered thirty-three in the schedule to this act.

2. Whenever the necessary laws have been passed by the legislature of Newfoundland and approved by Her Majesty for carrying into operation the articles in the schedule to this act so far as they relate to Newfoundland, it shall be lawful for the officer administering the government of Newfoundland, at any time during the suspension, in pursuance of this act, of the above-mentioned acts of Parliament and laws, by his proclamation, to declare that, after a time fixed in such proclamation for that purpose, this act and the articles in the schedule to this act shall extend, and the same accordingly shall extend to Newfoundland, so far as they are applicable thereto.

3. This act may be cited as "The Treaty of Washington Act, 1872."

SCHEDULE.

Articles of the treaty of Washington of the 8th May, 1871, which are referred to in the foregoing act.

ARTICLE XVIII.

It is agreed by the high contracting parties that, in addition to the liberty secured to the United States fishermen by the convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbors, and creeks of the provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery.

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and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

ARTICLE XIX.

It is agreed by the high contracting parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbors, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

ARTICLE XX.

It is agreed that the places designated by the commissioners appointed under the first article of the treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's dominions and the United States, as places reserved from the common right of fishing under that treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding articles. In case any question should arise between the governments of Her Britannic Majesty and of the United States as to the common right of fishing in places not thus designated as reserved, it is agreed that a commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the commission appointed under the said first article of the treaty of the 5th of June, 1854.

ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, fish-oil and fish of all kinds, (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the Dominion of Canada, or of Prince Edward's Island, or of the United States, shall be admitted into each country, respectively, free of duty.

ARTICLE XXII.

Inasmuch as it is asserted by the government of Her Britannic Majesty that the privileges accorded to the citizens of the United States under Article XVIII of this treaty are of greater value than those accorded by Articles XIX and XXI of this treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States; it is further agreed that commissioners shall be appointed to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this treaty; and that any sum of money which the said commissioners may so award shall be paid by the United States Government, in a gross sum, within twelve months after such award shall have been given.

ARTICLE XXIII.

The commissioners referred to in the preceding article shall be appointed in the following manner, that is to say: One commissioner shall be named by Her Britannic Majesty, one by the President of the United States, and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third commissioner shall not have been so named within a period of three months from the date when this article shall take effect, then the third commissioner shall be named by the representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The commissioners so named shall meet in the city of Halifax, in the province of

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Nova Scotia, at the earliest convenient period after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

Each of the high contracting parties shall also name one person to attend the commission as its agent, to represent it generally in all matters connected with the commission.

ARTICLE XXIV.

The proceedings shall be conducted in such order as the commissioners appointed under Articles XXII and XXIII of this treaty shall determine. They shall be bound to receive such oral or written testimony as either government may present. If either party shall offer oral testimony, the other party shall have the right of cross-examination, under such rules as the commissioners shall prescribe.

If in the case submitted to the commissioners either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the commission, and the commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the commissioners under the circumstances contemplated in Article XXIII of this treaty.

ARTICLE XXV.

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each of the high contracting parties shall pay its own commissioner and agent or counsel; all other expenses shall be defrayed by the two governments in equal moieties.

ARTICLE XXX.

It is agreed that for the term of years mentioned in Article XXXIII of this treaty, subjects of her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the Saint Lawrence, the great lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, that a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise from one port or place within the possessions of Her Britannic Majesty in North America, to another port or place within the said possessions: Provided that a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such rules and regulations as may be agreed upon between the government of Her Britannic Majesty and the Government of the United States.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this article through the territory of the United States; and Her Majesty's government engages to urge the parliament of the Dominion of Canada and the legislatures of the other colonies not to impose any export duties on goods, wares, or merchandise carried under this article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this article in favor of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favor of the subjects of Her Britannic Majesty under this article in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

ARTICLE XXXI.

The government of Her Britannic Majesty further engages to urge upon the parliament of the Dominion of Canada and the legislature of New Brunswick, that no export

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duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river Saint John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick. And, in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this treaty, it is agreed that the Government of the United States may suspend the right of carrying hereinbefore granted under Article XXX of this treaty for such period as such export or other duty may be levied.

ARTICLE XXXII.

It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this treaty, inclusive, shall extend to the colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the legislature of Newfoundland, or the Congress of the United States, shall not embrace the colony of Newfoundland in their laws enacted for carrying the foregoing articles into effect, then this article shall be of no effect; but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair any other articles of this treaty.

ARTICLE XXXIII.

The foregoing Articles, XVIII to XXV, inclusive, and Article XXX of this treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the legislature of Prince Edward's Island on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years, or at any time afterward.

No. 179.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *January* 30, 1873. (Received January 31.)

SIR: I have the honor to transmit herewith copy of an act passed by the legislature of Prince Edward's Island on the 29th of June last, relating to the treaty of Washington of May 8, 1871.

I have, &c.,

EDW'D THORNTON.

CAP. II.

AN ACT relating to the treaty of Washington, 1871, passed June 29, 1872.

Whereas, by article thirty-three of the treaty between Her Majesty and the United States of America, signed at the city of Washington, on the eighth day of May, one thousand eight hundred and seventy-one, it is provided that articles eighteen to twenty-five, inclusive, relating to the fisheries, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other; and that, such assent having been given, the said articles shall remain in force for the term of years mentioned in the said article thirty-three; and whereas it is expedient that the laws required to carry the said treaty into effect as respects Prince Edward's Island should be passed by the legislature thereof:

1. Be it therefore enacted by the lieutenant-governor, council, and assembly: The act made and passed in the sixth year of the reign of her present Majesty, chapter fourteen, intituled "An act relating to the fisheries, and for the prevention of illicit trade in Prince Edward's Island and the coasts and harbors thereof," shall be and is hereby suspended as respects vessels and inhabitants of the United States of America engaged in taking fish of every or any kind, except shell-fish, on the sea-coasts and shores, and in

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the bays, harbors, and creeks of Prince Edward's Island; as shall, also, all acts, laws, or regulations (if any) over which the legislature of the said Island has control which would in anywise prevent or impede the full effect of the said article eighteen.

2. Fish-oil and fish of all kinds, except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil, being the produce of the fisheries of the United States, shall be admitted into Prince Edward's Island free of duty.

3. The foregoing sections of this act shall come into force upon, from, and after a day to be appointed for that purpose by a proclamation based upon an order of the lieutenant-governor in council, and shall remain in force during the term of years mentioned in article thirty-three of the said treaty.

No. 180.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *February* 10, 1873. (Received February 11.)

SIR: Lord Granville has desired me to state to you that, as the Japanese embassadors, who have already visited England and the United States, have now set out to visit other European countries, it may be agreeable to the Government of the United States, with reference to the negotiation for the revision of treaties which will take place at no distant day in Japan, to be made acquainted with what has passed with them in England.

I have, therefore, the honor, by his lordship's direction, to inclose copies of the memoranda of three conversations which he held with them before their departure, and of a memorandum which they gave him respecting a question more directly affecting the United States, England, France, and Holland, with observations thereupon by Sir Harry Parkes.

Sir Harry will shortly return to Japan, and will be authorized, when the time arrives, to enter upon the question of the revision of the British treaty with Japan, and he will be prepared to communicate unreservedly with the representatives of other powers who have a common interest with England in the establishment of relations with Japan on a satisfactory footing.

I have, &c.,

EDW'D THORNTON.

No. 1.

Memorandum by the Japanese embassadors respecting the Shimonoseki indemnity.

On the 22d of October, 1864, a convention was signed by the representatives of Great Britain, France, United States, and Netherlands with the representative of the Japanese government, wherein was concluded a final arrangement settling the amount of indemnity to be exacted in consequence of certain attacks made at Shimonoseki by the daimio of Chio-Shiu upon vessels of the above-named powers, wherein the government of Japan was bound to pay, in quarterly installments, the sum of $3,000,000, as indemnity for all direct damages, as well as remote or consequential damages, and expenses in any way resulting from or occasioned by reason of the expedition undertaken by the combined naval forces of these four powers.

The first, second, and third installments were accordingly paid by the government of Japan, agreeably to the foregoing conditions; but when the time arrived for payment of the fourth installment, the existing government was in so critical a situation that further payments were quite beyond its power at that time, and it became necessary to address the parties to this convention, requesting a postponement of two years for the remaining payment, adding proper interest for the delay.

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To this proposal the representatives of the four powers replied that they would refer the matter to their respective governments; and it was subsequently understood by the government of Japan that its proposal had been unanimously acquiesced in.

The foregoing statement shows the condition of the Shimonoseki indemnity transactions until a postponement was consented to.

We now desire to call the special attention of Her Britannic Majesty's government to an important point set forth in the convention referred to. It was perfectly understood by the parties to the aforesaid convention that the principal object held in view by the respective governments was to deal with this question so as to enlarge and increase the commercial relations with Japan on a broad and advantageous basis, and that therefore they were strongly inclined to give preference to the opening of Shimonoseki, or some other port of the inland sea, should it be found practicable, rather than to insist upon a pecuniary indemnification.

This Her Britannic Majesty's government may, perhaps, more clearly understand by referring to the following extract from the 3d article of the said convention, viz:

"Inasmuch as the receipt of money has never been the object of the said powers, but the establishment of better relations with Japan, and the desire to place these on a more satisfactory and mutually advantageous footing, is still the leading object in view, therefore, if His Majesty the Tycoon wished to offer, in lieu of the sum claimed, and as a material compensation for loss and injuries sustained, the opening of the port of Shimonoseki, or some other eligible port in the inland sea, it shall be at the option of the said foreign governments to accept the same, or insist on the payment of the indemnity in money, under the conditions above stipulated."

From this it clearly appears that the spirit we have above alluded to was implicitly understood by the powers above named, and especially so as their representatives have subsequently reiterated the sentiments both in verbal and written communications.

It may easily be inferred that the government of Japan, had it been possible and within the power of the general government at that time, would undoubtedly have preferred to open Shimonoseki, or any other port of the inland sea, than to pay the heavy pecuniary indemnity.

Had the government at that time been able to accept the alternative of opening a port as desired, it would have avoided a heavy pecuniary burden, which can in no way assist the desired end of developing the commercial relations of the respective countries.

We are, therefore, certain, from the expressions made on the part of the powers named, which must have been sincerely made in the convention, where the said preference was continually expressed, that a proposition to open a port would have more nearly met their views than the payment of a pecuniary indemnity.

Being fully encouraged by expectations founded on the disposition there manifested, we have endeavored in every possible way, as Her Britannic Majesty's government well knows, amid the trying difficulties and perplexing complications resulting from internal disturbances and civil strife, to achieve what we thought most important and within our power to accomplish for the promotion of commerce and the cultivation of friendly relations with western powers.

When foreign powers complied with our request for postponement of the payment of the remaining sum, a material substitute was exacted, and we were required to revise our tariff before the term of ten years fixed for a revision of treaties, which demand resulted in concluding the convention of June 25, 1866, wherein many additional articles were agreed to and signed by the representatives of the same powers which were parties to the indemnity convention.

When His Majesty the Emperor of Japan gave his sanction to the treaties concluded with the European powers, he largely contributed to establish the object claimed by foreign representatives as the end of their aims, viz, to facilitate and increase international commercial relations.

It was likewise favorable to commerce when we opened the port of Hiogo and the city of Osaka, when a port was also opened beyond the requirement of the treaty of 1858.

In addition to this we were bound to construct light-houses by the XIth article of the said convention, in the following terms, viz:

"The Japanese government will provide all the ports open to foreign trade with such lights, buoys, and beacons as may be necessary to render secure the navigation of the approaches to the said ports."

Accordingly, the necessary materials for their construction were ordered from Europe, and the work was at once commenced. Soon after the revolution broke out, in the beginning of the year 1868, and, as Her Britannic Majesty's government is well aware, resulted in the firm establishment of the present legitimate monarchical government of His Imperial Majesty the Emperor of Japan.

While largely pre-occupied with the pressing emergencies of a spirited revolution our leaders foresaw the importance of foreign intercourse, and resolved to direct their full energies towards promoting friendly and commercial relations with European powers.

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It is with pleasure that we are now able to state that these public works are about completed, to the general satisfaction of all foreigners residing in Japan; but we would at the same time call the attention of Her Britannic Majesty's government to the fact that many public works undertaken by the Japanese government for the benefit of commerce have entailed upon our country very heavy expenses, especially severe at a time immediately following a most serious revolution of a national character, during which the finances of the country were severely taxed, and since which the large public improvements, most of the materials for which have of necessity been purchased out of the country in European markets, have called for a rapid expenditure within a comparatively limited time. Indeed, the sum of expenses incurred in erecting lighthouses alone has been enormous, far exceeding anything we foresaw when the work was undertaken; we have already thus expended more than $1,000,000, without, however, including the probable amount which it will be necessary to spend hereafter in order to complete all these works.

If Her Britannic Majesty's government will carefully examine the points we have touched upon, together with further points, such as the direct losses of the Japanese government, resulting from the reduction of both import and export duties, the abolition of permits for landing and shipment, establishment of the warehousing system, with which we were unacquainted, and consequently requiring the employment of foreigners, we feel confident that the actual results we have been able to successfully accomplish in the short space of a few years cannot fail to carry full conviction that we have labored earnestly and sincerely for the promotion and cultivation of friendship, and that on the part of His Imperial Majesty's government every available means has been diligently employed to foster and develop wider commercial relations with European powers, and carry out in good faith the entire spirit as well as the letter contained in the third paragraph of the convention of 1866, which reads as follows:

"The government of Japan being desirous of affording a fresh proof of their wish to promote trade and to cement the friendly relations which exist between their countries and foreign nations," &c.

The Japanese government therefore consider themselves as having fulfilled the conditions required by the said powers, in consequence of their deviation from the payment of a portion of the indemnity, and trust that the foreign powers will approve of what they have hitherto done, and will fully appreciate the views herein expressed, in order that we may reach a final settlement of this affair.

The Japanese government, in submitting this memorandum, are prompted by an earnest desire to become acquainted with the disposition and the views of Her Britannic Majesty's government with respect to this subject.

No. 2.

Observations by Sir H. Parkes on the memorandum of the Japanese embassadors.

The antecedents of this question are not clearly stated in this memorandum.

This indemnity became due under the Shimonoseki convention of 22d October, 1864, as compensation for the numerous attacks made by the daimio of Chio-Shiu on French, Dutch, and United States ships, and for the expenses incurred by those powers and Great Britain in depriving that daimio of further means of offense.

The option of opening an eligible port to foreign trade in lieu of the indemnity was reserved by the same convention to the Japanese government, but was declined by the latter.

It was understood, therefore, that payment should be proceeded with, as stipulated, in six quarterly installments of $500,000 each; and the four powers agreed to a plan of division, by which France, Holland, and the United States were to receive $420,000 as compensation for the injuries done to their ships, and the remaining $2,580,000 were to be divided equally between the four powers. At that time (1865) the United States minister in Paris (Mr. Bigelow) contended that, although the United States only contributed one small vessel to the expedition against Chio-Shiu, the value of the moral force of the United States co-operation justified a claim to an equal division in the indemnity.

In connection with this point it may be observed that the House of Representatives reported this year (see Sir Edward Thornton's dispatch No. 322) that all the injuries sustained by Japanese attacks on United States vessels or property did not amount to $40,000, and that the expense of providing the small vessel above alluded to cost only a few thousand dollars. That the United States Government having received in return for these injuries and outlay upwards of $700,000, the committee reported a bill releasing the Japanese government from payment of the United States' share of the portion of the indemnity remaining due. This bill passed the House of Representatives, but not the Senate.—(See Sir Edward Thornton's dispatch No. 457.)

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The first installment of $500,000 was paid by the Japanese government in August, 1865, and they at once asked for delay in the liquidation of the remaining five installments.

Upon this, the four powers offered to remit four installments, or $2,000,000, altogether, provided the Japanese government opened at once the ports of Hiogo by Osaka, obtained the ratification of the Mikado to the treaties, and revised the tariff on a basis of 5 per cent.

The Japanese government complied with the two latter conditions, but declined to open the port of Hiogo until the time stipulated for doing so, (1868,) and declared their preference for the full payment of the indemnity, which they again undertook to complete without further delay.

Payment of two more installments followed; but in April, 1866, they again applied for postponement in the discharge of the remaining three installments, or $1,500,000, being the sum which still remains due.

The good feeling shown by the Japanese government in the negotiations of the tariff in 1866, and again in the arrangements made for the opening of Hiogo and Osaka, at the time appointed, (1868,) induced the British, French, Dutch, and United States representatives in Japan to recommend to their respective governments that payment of the above amount should be deferred until May, 1869, at which date the Japanese government declared that they would not fail to meet their obligations. This proposal being acceded to, the latter thus obtained three years' time, with interest chargeable on two only of these three years. It was tacitly understood that the rate of interest would be 5 per cent.

Civil war intervened, and the Tycoon's government was replaced by that of the Mikado. In the spring of 1869 that government was reminded that payment of the remaining moiety of the indemnity would soon become due, and they met this notice by a request for a further extension in time of three years, and for the remission of all interest due until the end of the said three years, and also for the two preceding years, five in all, on condition that they should not raise the duties on tea and silk—which they possessed the right to do at that date, 1869—until the treaties came to be revised in 1872.

This proposal was accepted by the four powers, but on the express condition that it was to be regarded as a final settlement of the question, and that no further postponement of payment should be asked for by the Japanese government. Accordingly, the representatives of the four powers, in making known to the Japanese government the acceptance of the above proposal, used the following clear language on this point, in a *note identique* which they addressed on the 7th March, 1870, to the Japanese ministers:

"It is incumbent, however, on the part of the undersigned, to add that, in view of the repeated delays which have occurred in the payment of the said indemnity, it becomes necessary that the notes now exchanged between their excellencies and the undersigned should declare that the present postponement is final, and that the Japanese government will not fail to pay, to the four powers interested in the Shimonoseki indemnity, on the 15th May, 1872, the whole of the moiety remaining due, namely, $1,500,000."

To which the Japanese ministers rejoined on the 9th April, 1870:

"In reply, we have the honor to inform you that we accept the delay offered, namely, till the 15th May, 1872. In view, however, of the repeated delays in the payment of the said indemnity, it is agreed that no further postponement shall take place."

Nothing further passed between the Japanese government and Her Majesty's representatives in Japan until the three years thus granted expired, last May, when the Japanese minister informed Mr. Adams, exactly a week before the payment became due, that the embassador, Iwakura, who had then left Japan nearly five months, had been charged to treat on this subject with Her Majesty's government.

The arguments in the embassador's memorandum for the remission of the money, which three years ago the Japanese government explicitly declared they would pay in May, 1872, without further question, are now put forward for the first time. They urge as concessions to foreign commerce the ratification of the treaties by the Mikado, the revision of the tariff in 1866, earlier, as they allege, than the time appointed, the construction of light-houses, the abolition of fees on landing and shipping permits, the establishment of a warehousing system, and the opening of the port of Osaka. But they should remember that the refusal of the Mikado to ratify the treaties would have been a hostile act; that the revision of the tariff was not undertaken before the time appointed, as it could be claimed under the treaty any time after 1863; that the new tariff can be shown to be more advantageous to their interests than the old one; that the provision of light-houses is as beneficial to native as to foreign shipping, and that the cost of construction or maintenance may be met with light-dues; that the abolition of permit-fees put a stop to abuses which were not creditable to the Japan custom-house; that the warehouse system, as they work it, has not proved serviceable to foreigners, and that the permission to foreign ships to anchor off Osaka, which is an

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accommodation of trivial value and seldom used, was fully met by the delay granted to the Japanese government in the opening of Yedo and Niigata. In return, however, for the good feeling which these arrangements denoted, the Japanese government were allowed an extension of three years' time in the payment of half of the indemnity, namely, from May, 1866, to May, 1869, and a year's interest on the same was remitted to them.

It would appear, therefore, that if they now seek the remission of the $1,500,000 still remaining due, they should offer some equivalent of corresponding value, but no proposal of this kind is made in the memorandum of the embassador.

So long as the indemnity is not paid, the Japanese government cannot claim the higher silk and tea duties agreed to in 1869, and these low duties are doubtless an adequate equivalent for the interest due on the moiety of the indemnity which remains unpaid. The Japanese government also have it in their power to make other concessions if they are actuated by a sincere desire to expand foreign intercourse and commerce.

HARRY S. PARKES.

LONDON, *November* 30, 1872.

No. 1.

Memorandum of an interview between Earl Granville and Iwakura, chief embassador of Japan, at the foreign office, November 22, 1872.

Iwakura said that he had come to thank Lord Granville, and through him Her Majesty's government, for the facilities afforded to the embassy during their visit to the different towns of this country. They had been much pleased and interested, and he had no doubt that much advantage would accrue to Japan from the observations which they had made.

He went on to say that his present visit was merely one of ceremony, but that he hoped to have an early opportunity of conferring with his lordship with regard to the objects of the mission of himself and his colleagues to this country.

On being invited by Lord Granville to proceed to do so at once, Iwakura said that his lordship was doubtless acquainted with the general character of the political changes which had taken place in Japan during the last twenty years. He would only refer to the opening of the country to foreign commerce, the abolition of the feudal system, and the centralization of the government under the rule of the Mikado. Under these altered circumstances, it had become the policy of the Mikado and his government to endeavor to assimilate Japan as far as possible to the enlightened states of the west, and that the present embassy had, therefore, been sent to England in order to study her institutions, and to observe all that constitutes English civilization, so as to adopt on their return to Japan whatever they may think suitable to their own country. The time had now arrived for the revision of the treaty between Japan and England, and he was charged by his sovereign to ascertain the views of the British government on this subject. These he would lay before the Mikado, by whom they would be taken into consideration when the treaty was being revised.

Lord Granville inquired whether it was intended that the negotiations for the revision of the treaty should be carried on in England or in Japan.

Iwakura replied, "In Japan."

Lord Granville then invited Iwakura to state his views regarding the principles on which the treaty should be revised, but Iwakura said that he was not charged with the expression of the views of the Japanese government on this subject, but only to ascertain the views held on it by the British government.

Lord Granville said that he would require some time for consideration before explaining fully the views of Her Majesty's government, but he would state their opinions in regard to one or two points.

One was the question of religious toleration. His excellency had no doubt observed that, notably in England and America, and in an increasing degree in continental countries, the policy of religious toleration was everywhere accepted. He could assure his excellency that nothing would conduce more to create a favorable feeling toward Japan among Englishmen than the adoption of a more liberal policy in this respect.

Iwakura said he would state his opinions on this subject on a future occasion.

Lord Granville then adverted to the facilities for traveling in every part of this kingdom which are afforded to all foreigners, not only when traveling like the embassadors in an official, but also in private capacities, and added that, if Japan wished to assimilate herself with foreign countries, the country must be thrown open more freely.

Iwakura said that the policy of the Japanese government would be to favor such a

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result by all the means in their power. He feared, however, that at present the ignorance of the rural population, and other difficulties, made it impossible to allow foreigners to travel freely in the interior for the present.

Lord Granville informed Iwakura that the Queen would give him an audience on the 5th December. The particulars of this audience would be afterward communicated to him.

Another interview was arranged for the 27th instant, at which Iwakura hoped he might be allowed to bring with him one of the associate embassadors and the Japanese minister. Lord Granville intimated to Iwakura that Sir Harry Parkes would also be present.

W. G. ASTON, *Interpreter.*

No. 2.

Memorandum of an interview between Earl Granville and Iwakura, chief Japanese embassador, at the foreign office, November 27, 1872. Sir Harry Parkes, Terashima Munenori, Japanese minister, and Yamaguchi, associate embassador, were also present.

After the first compliments had been exchanged, Iwakura said that he was now ready to hear from Lord Granville what were the views of the British government in regard to the revision of the treaty. Lord Granville said he would do so, but that he still hoped, notwithstanding the language used by Iwakura at the previous interview, that so important an embassy and one composed by such eminent men would be able to inform him of the views of their own government on this question, as any communication of this sort, if wholly on the part of one side, was not of much practical use.

Iwakura replied that he was not authorized by his instructions to declare the views of his own government, but merely to learn what were the views of the British government.

Lord Granville said that although this made discussion more difficult, he would not be reticent as to some of the principal points, though he did not propose to go into any details. He went on to say that the British government were desirous that the Japanese government should afford greater facilities for European ships to visit other ports than those now open to them by treaty, and for foreigners to travel in the interior of the country.

Iwakura, followed by Terashima and Yamaguchi, then stated the objections which in their view existed in the way of granting increased facilities of this kind. So many difficulties, they said, had been experienced in carrying out the present arrangements for foreign intercourse even at the open ports where the European authorities resided, that it was only reasonable to suppose that many more would arise if intercourse with foreigners were permitted generally throughout Japan.

When asked to describe the nature of these difficulties, Terashima mentioned as examples the impossibility of framing and carrying out regulations for game, for the preservation of harbors, for lighting the foreign settlements, and the difficulties which have been met with at Hiogo in regard to the payment of land-tax by foreigners resident beyond the limits of the foreign settlement. Till these difficulties were removed, he thought it could not be expected that greater facilities should be granted, for these would certainly give rise to additional troubles.

Sir Harry Parkes pointed out that these difficulties were in great part the creation of the Japanese government themselves, and Lord Granville observed that there was no reason why they should not be removed by the two governments working heartily in concert. He was convinced that, in the view of the friendly feelings and mutual desire for more unrestricted intercourse which now existed between the Japanese and English nations, there could be no real obstacle to the removal of the restrictions upon trade and intercourse which still existed in Japan. If this were done, he had no doubt the time would come when it would be unnecessary to have any regulations of a special character for the government of foreigners resident in Japan.

Iwakura inquired whether Lord Granville thought it probable that this result could soon be brought about. If, he said, foreigners were amenable to Japanese law, he saw no reason why the same facilities for trade and intercourse should not be granted as exist in England.

Lord Granville replied that, as soon as Japan had a proper code of laws administered by tribunals upon which the British government could rely, a great change would take place in the feelings entertained in regard to this matter. His lordship then referred to the case of Egypt, where the extraterritorial jurisdiction had formerly prevailed, but where the experiment was now being tried of allowing Egyptian tribunals to administer the law in civil cases. If this experiment succeeded, it would be tried in criminal cases also, and there was no reason why a similar course should not be taken

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with Japan. In all such cases the policy of the British government was to yield the local authorities jurisdiction over British subjects in precise proportion to their advancement in enlightenment and civilization.

Iwakura thanked his lordship for these assurances. He said that he would be careful to report them to his sovereign, and that in particular he would not fail to acquaint him with his lordship's observation on the British policy in regard to jurisdiction in Egypt.

Lord Granville then referred to the question of religious toleration in Japan. He said that there was a very strong feeling in England upon this subject, and that strong representations had been made to him in respect to it. Nothing would tend more to bring about a more favorable feeling toward Japan than toleration in religious matters.

Iwakura said that it was the earnest desire of the Japanese government to favor by all possible means the attainment of this object. The difficulties, however, in their way were very great. More than 200 years ago the introduction of Christianity into Japan was the occasion of a great national disaster. It was the cause of a civil war, and there was much bloodshed before it came to an end. Since that time Christianity had been repressed with great severity, and professing Christians were punished with death. Since Japan was opened to foreign commerce they had been treated much more leniently. The practice of causing supposed Christians to trample on religious emblems had been abolished, and milder punishments had been substituted for that of death. At the present time the government endeavored to close their eyes to the profession of Christianity, except when political motives rendered it necessary to act. And he assured Lord Granville that it was the earnest desire of the Japanese government to make progress in such a policy, as far as circumstances would allow.

Lord Granville took note of these assurances.

Iwakura then said that he would now refer to one or two other subjects on which he would be glad to hear his lordship's views. One was that of the British troops stationed at Yokohama. He had not forgotten the regrettable circumstances which had led to their being stationed there, but did his lordship not think that the time had arrived when they might be withdrawn?

His lordship promised to consider this matter.

Terashima then placed in Lord Granville's hands a memorandum on the subject of the Shimonoseki indemnity. His lordship observed that in this country it was usual when an agreement was made that it should be adhered to, and he inquired whether the memorial suggested an equivalent for the three installments still remaining due, to which Terashima replied that it did.

W. G. ASTON, *Interpreter.*

No. 3.

Memorandum of an interview between Earl Granville and Iwakura, chief Japanese embassador, at the foreign office, December 6, 1872. Sir Harry Parkes, Terashima, Japanese minister plenipotentiary, and Yamaguchi, associate embassador, were also present.

Lord Granville inquired whether his excellency had anything to say. The embassador replied he had not, whereupon Lord Granville observed that the only response he had received to his statement of the views of Her Majesty's government at their previous interview had been a relation of the difficulties which existed in the way of meeting them. He could, however, appreciate his excellency's difficulty in speaking openly on subjects he was not authorized to treat on.

Iwakura then said that he would be glad to receive answers from his lordship on the two points named at their last interview, viz, the maintenance of a military force at Yokohama and the Shimonoseki indemnity.

Lord Granville replied that Her Majesty's government were responsible to the nation for the safety of the legation which had been sent to Japan, and that it was necessary in the interests of both countries that the legation should be efficiently protected. At one time the force stationed at Japan amounted to 2,000 men, which was a little army, but now all regular troops had been withdrawn, and only a small body of marines was left, amounting to little more than a guard of honor to the legation. Sir Harry Parkes would report, from time to time, upon the state of affairs in Japan, but the British government must feel perfectly assured that no outrage upon Englishmen was again likely to occur before they could undertake the responsibility of entirely withdrawing this guard.

Iwakura wished to explain the altered state of affairs in Japan of late years. When British troops were first sent to Japan, it was a time of great confusion. The whole constitution of the government was being changed. Since then, however, the govern-

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ing power had become centralized in the hands of the Mikado, and more friendly relations with foreigners had been the result of the settled state of government which now existed. He could assure his lordship that no danger any longer existed for foreigners in Japan, and hoped that the British government would place sufficient confidence in this assurance to withdraw the troops.

Lord Granville admitted that a great change for the better had taken place in Japan, and said that the force stationed there had been diminished in proportion to the improvement made. Her Majesty's government, however, felt that a weighty responsibility rested with them in this matter, and that, until they had arrived at the same conviction as his excellency, they would not consent to the entire withdrawal of the troops. The only object of the maintenance of a force at Yokohama was to prevent the possibility of disagreeable occurrences which might jeopardize the friendly relations between the two countries.

Iwakura pointed out that the presence of these troops was injurious to the Mikado's government. Their relations with England were more intimate and extensive than those with any other country, and the influence of England's example would have much weight with other countries. He regretted exceedingly that his explanation was not considered sufficient, and he feared that the retention of the troops might be looked upon as indicating a less friendly feeling between the two nations than was desirable.

Lord Granville said that of the friendly disposition of Her Majesty's government there could be no doubt, but they could not undertake the responsibility of removing the troops until further reports had been received.

Iwakura regretted that the explanation he had offered had not elicited a more satisfactory reply from his lordship.

Lord Granville then proceeded to the question of the payment of the Shimonoseki indemnity. His lordship observed that when two governments make an arrangement it was unusual for one of them to seek to withdraw from it. In the last correspondence which had passed upon the subject, the Japanese government had solemnly guaranteed the payment of the indemnity on the 15th of May, 1872. In the memorandum handed in by Terashima his lordship could find no mention of an equivalent for the indemnity, although one was stated by Terashima to be contained in it. In this matter, however, Her Majesty's government did not wish to make a bargain. Their opinion was that a mere question of money ought not to interfere with the much larger question of the friendly relations between the two countries. He would, therefore, state to the embassador that if, on the return of the embassy, the experience they would doubtless have gained in the mean time led them to make such representations as would induce their government to move in the line of policy indicated at the last interview, he would be happy to consider favorably with his colleagues the question of the indemnity.

Iwakura wished for a more precise statement of Lord Granville's views.

Lord Granville reminded him of the position they both occupied. Iwakura was without instructions to negotiate or to declare the views of the Japanese government, and yet he wished to obtain from him a statement of the views of Her Majesty's government. This position was objectionable, as being entirely one-sided. He had, nevertheless, shown no hesitation in indicating to the embassadors how friendly feelings might be promoted and commercial intercourse extended. If progress were made in this direction, he would then be ready to consider with his colleagues the question of the indemnity.

Iwakura replied that, on his return to Japan, he expected to be able to carry out what he conceived to be most conducive to the interests of Japan and other countries, and he felt confident that a good understanding might be come to when the treaties were under revision. To give an example: it was desirable that foreigners should be allowed to travel in the interior of Japan just as in England, and, although the question was beset by numerous difficulties, he hoped that, by means of good regulations, traveling in the interior might be made safe and agreeable.

Lord Granville said that he was aware that they had difficulties to contend with, but that he was confident much might be looked for from the favorable reports of a distinguished embassy like the present. He felt sure they would take statesmanlike views of these and other points, and he therefore hoped that some means might be arrived at of meeting the views of Her Majesty's government in a reasonable and practicable way.

Iwakura wished to point out that the indemnity was a question quite distinct from that of the revision of the treaty. He had always understood that the desire of the British government was not to receive money, but to remove prejudices and to promote commerce between the two peoples. They had, therefore, in the first instance, asked for the opening of Shimonoseki, or some other port, as an equivalent for the payment of the indemnity. This demand it was at that time impossible to concede, and it therefore became necessary to fall back upon a money payment.

Sir Harry Parkes remarked that, after much discussion and frequent delays, it was eventually decided in May, 1869, that the remaining installments should be paid on the

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15th May, 1872. No mention was then made of any equivalent having been given for the payment of the indemnity. This was now urged for the first time.

Lord Granville repeated that Her Majesty's government had no wish to drive a bargain in this matter. Their right to the money payment was indubitable, but if they found that the views of the Japanese government were becoming more progressive, he would recommend his colleagues to consider the question of remitting the payment of the remaining installments. The removal of restrictions on intercourse and commerce, which was all that was asked for, was as advantageous to Japan as to other countries. He asked them to do nothing hurriedly, but only pointed out the direction in which they ought to move in order to place relations which were already good on a still better footing. If the Japanese government did so, the British government would not haggle about a sum of money.

Iwakura asked if he was to understand that he could look for no more definite answer until the return of the embassy to Japan.

Lord Granville admitted that such was the case. As the embassador was unable to negotiate, he could only express his own views very generally.

Iwakura urged that the indemnity had no relation to the revision of the treaty.

Lord Granville observed that the tone of his excellency's remarks would seem to imply that he expected a concession without offering any equivalent.

Iwakura replied that he thought the memorandum which he had handed in showed that by constructing light-houses and in other ways an equivalent had been given.

Lord Granville said that the ratification of the treaty and the revision of the tariff, which were referred to in the memorandum, could not be considered in this light. The latter was our right, and the refusal of the former would have been a hostile act. The light-houses were an advantage to Japan as well as to foreign countries. Did his excellency mean, when he spoke of the light-houses as an equivalent, that the Japanese government would pledge themselves never to levy any light-dues on foreign ships?

Iwakura asked if such a pledge would be accepted as an equivalent.

Lord Granville said that he was not prepared to say that it would. He did not, however, wish to make this a matter of money calculation, but would much prefer to remit the payment entirely if the desired advances were made in the general policy of the Japanese government.

Iwakura then asked if the demand for payment would be deferred till the return of the embassy to Japan.

Lord Granville replied that, without making any positive agreement to that effect, and in consideration of the assurances he understood the embassador to offer, namely, that the Japanese government would advance in the line of policy previously indicated, he would consent to maintain the *statu quo* both in respect to the payment of the indemnity and to the duties upon tea and silk until the return of the embassy.

The interview then terminated.

W. G. ASTON, *Interpreter.*

No. 181.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *February* 19, 1873. (Received February 20.)

SIR: I feel it my duty to invite your attention to certain measures taken by Mr. Shannon, a United States commissioner at New Orleans, and Mr. Mason, holding the same office at Galveston, which, if they be repeated, may prove very prejudicial to the interests of British shipping arriving at those ports.

Not long since the British ship Woodburn arrived at New Orleans on a voyage, as described in the articles of agreement, "from Glasgow to Calcutta, and, if required, to any port or ports in the Indian or China seas, Mauritius, Australian colonies, North or South Pacific, West Indies, British North America, or United States of America, to a final port or ports of discharge on the continent of Europe, and or in the United Kingdom, with liberty to call at any port for orders, probable period of agreement two years."

At Calcutta a man, named Thomas Croker, was shipped in due form before the proper officer, whose initials were attached to his engage-

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ment, which appeared on the articles as follows: "Signature of crew; Thomas Croker; age, 37; town or country where born, Ireland." On the arrival of the ship at New Orleans Croker sued for his discharge and wages on the sole ground that he was a citizen of the United States. As he had described himself as born in Ireland, it was contended on the part of the master that he was *prima facie* a British subject, and that he was bound by law of evidence and by the United States statutes to produce his naturalization papers; but Mr. Commissioner Shannon held that his parol statement was sufficient.

It was then contended that his signing the articles of a ship, proceeding to an American port, to serve beyond that port, must be taken as a waiver to any supposed right to his discharge as an American citizen, but the United States commissioner held that, as Croker had signed the articles after the voyage had commenced, the contract was not an original one, and therefore not binding.

Mr. Commissioner Shannon was good enough to give Her Majesty's consul these decisions in writing, under date of December 31, 1872, in the following words:

SIR: In the case of Thomas Croker, seaman, *vs.* ship Woodburn, I decided in favor of the seaman for his wages on the grounds, viz:

1. That he is an American seaman and entitled to his discharge and payment of his wages in an American port.

2. The alleged agreement produced is not an original agreement, so far as Croker is concerned, the agreement being one made at Greenock, Scotland, and not at Calcutta, in the East Indies, where the seaman shipped. The wages, if a libel is filed, which will be done, provided payment is not made, will be at £3 per month. If the matter is not settled by Thursday next (*sic*) will be prosecuted in the United States district court by the filing of a libel against the ship.

R. H. SHANNON.

To avoid further expense the master discharged the seaman, paid him his wages, and Mr. Commissioner Shannon his fees, amounting to $13.61.

Other cases have since occurred in which the commissioner has made similar rulings.

At Galveston, Tex., the master of the British ship Bucephalus, on his arrival at that port, informed Her Majesty's consul that a seaman named Thomas Moffat had, while at sea, assaulted him and knocked him down. Moffat subsequently came on shore and also complained to the consul of ill treatment by the master. The consul agreed to take his deposition and forward it to England, so that the case might be tried there.

Moffat then carried the matter before Mr. Sanford Mason, one of the United States commissioners at that port, who issued a warrant for the apprehension of the master, who was consequently arrested about 9 o'clock in the evening of the 28th ultimo and immediately carried to the common jail. He was released at 11 o'clock, having at that time procured sufficient bail.

After an investigation and trial before Mr. Commissioner Mason, which occupied portions of two days, the case was dismissed.

You will, perhaps, agree with me in the opinion that the rulings of Mr. Commissioner Shannon in the above-mentioned case cannot be supported, and though it may be true that such cases could be carried on appeal to the United States district court, the expense and delay caused by such proceedings could not but be extremely prejudicial to the interests of British ship-owners. I venture, therefore, to hope that some means may be found of preventing the repetition of decisions which oblige ship masters to discharge seamen before the completion of the voyage during which they have contracted to serve.

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The action of Mr. Commissioner Mason at Galveston seems also to be rather extraordinary, for there can be little doubt that he might have ascertained in a moment that the offense complained of was committed on the high seas, and therefore beyond the jurisdiction of the authorities of the United States.

But, even if this were not so, I should be much obliged to you if you would inform me whether such cases as those cited above legally come within the jurisdiction of authorities of the United States in the position held by Mr. Commissioner Shannon and Mr. Commissioner Mason, for upon this point I have been unable to obtain an opinion upon which I can rely.

I have, &c.,

EDW'D THORNTON.

No. 182.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *March* 8, 1873. (Received March 8.)

SIR: I have the honor to inclose for your information a copy of a report of the committee of the privy council of Canada which I have received from the governor-general of the Dominion, and which recommends that American vessels should not be prevented from fishing within the three-mile limit before the act of Congress giving effect to the articles of the treaty of Washington relating to Canada comes into effect, on the first of July next.

I have, &c.,

EDWD. THORNTON.

[Inclosure.]

The committee of the privy council beg leave to report to your excellency that the act of Congress giving effect to the treaty of Washington does not come into force till 1st July next.

Until that time American fishermen have no legal right to fish in Canadian waters, and their vessels are liable to seizure for doing so.

The committee are, however, of opinion that no steps should be taken by the government to prevent American vessels from fishing within the three-mile limit, and they should have full permission to fish so far as the government can grant it.

It is not probable that any seizures will be made before the 1st of July at the instance of private parties, but should such a case occur, the committee will be prepared to advise your excellency to order the release of the vessel, and the remission of any penalties incurred.

All of which is respectfully submitted.

JOHN O'CONNOR.

MARCH 3, 1873.

No. 183.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, March 14, 1873.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, inclosing a copy of a report of the committee of the

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privy council of Canada, made to the governor-general of that Dominion, recommending that American vessels should not be prevented from fishing within the three-mile limit before the act of Congress giving effect to the articles of the treaty of Washington relating to Canada comes into effect, on the 1st of July next.

I am instructed by the President to express his appreciation of this liberal recommendation of the committee of the privy council for removing the last impediment to the friendly relations which he desires to have subsist between two peoples so near neighbors, and so bound to each other by the ties of commercial interest and of personal intercourse.

I shall be obliged if you will inform me whether the recommendation above referred to will be carried into effect, and if this Government will be at liberty to issue the circulars usual in such cases.

I have, &c., &c.,

HAMILTON FISH.

No. 184.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *March* 20, 1873. (Received March 21.)

SIR: The attention of Her Majesty's government has recently been called to the fact that, in consequence of existing treaty stipulations between the United States and certain European powers, lines of steamers carrying the flag of those powers and plying between the ports of the respective countries have been relieved from the payment of tonnage dues in the ports of the United States, and therefore enjoy an advantage over British steamers engaged in the same way.

Her Majesty's government understands that in the United States all charges in respect of anchorage, buoys, and light-houses fall upon the national revenue and are not paid by shipping to which any treaty exemptions would apply; while tonnage-dues are levied upon shipping, and their proceeds are like the proceeds of any other general tax carried to the general receipts of the government.

Her Majesty's government is further informed that this tax is levied at the rate of so much per ton per annum on British vessels entering American ports, and that upon the British Atlantic lines it falls with great severity, amounting to a large sum in the year.

It seems that the National Steamship Company, which owns a fleet of twelve steamers, paid £2,728 14*s.* in respect of this tax during the past year, and that some companies have paid more and some less than that amount.

Having regard to the above statements and to the fact that although in Great Britain light and other dues are levied upon ships, and goods carried in ships in respect of benefits conferred, no dues of the description of tonnage-dues, *i. e.*, dues without a corresponding service, are levied. Lord Granville has instructed me to solicit your attention to the case, and to express the hope of Her Majesty's government that the Government of the United States may think it right to grant to British shipping interests a treatment not inferior to that now accorded to certain foreign ship-owners under the treaty engagements of their respective countries.

I have, &c.,

EDW'D THORNTON.

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No. 185.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, April 7, 1873.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th of February, in which you inform me, (1.) That Mr. Shannon, a commissioner duly appointed by the circuit court of the United States at New Orleans, entertained, in his judicial capacity, jurisdiction of a suit which involved the terms of service of a sailor who was shipped at Calcutta on the British ship Woodburn in due form before the proper officers. (2.) That Mr. Mason, a similar commissioner, similarly appointed at Galveston, entertained jurisdiction, in his judicial capacity, of a tort committed on the high seas on an English vessel.

You express your opinion that the rulings of Mr. Commissioner Shannon, in the case decided by him, cannot be supported; and you express the hope that some means may be found for preventing the repetition of such decisions.

You also express the opinion that Mr. Commissioner Mason might have easily ascertained whether the offense which he was considering was committed on the high seas.

You also ask me to inform you whether such cases come within the jurisdiction of the authorities of the United States in the position held by Mr. Commissioner Shannon and Mr. Commissioner Mason.

In reply to your last question I have to say that it is understood that the statutes of the United States do invest officers of the grade of Messrs. Shannon and Mason with a preliminary jurisdiction over such cases. But, in the case of foreign vessels, the courts of the United States, following the example of the courts of England, while asserting their jurisdiction as of right, have expressed a disinclination, on the grounds of expediency and propriety, to exercise that jurisdiction unless induced thereto by a clear necessity.

With reference to Mr. Mason, and your suggestion that he might easily have ascertained that the imputed offense was committed, if at all, upon the high seas, I take the liberty to observe that it does not clearly appear from your statement whether the case before him was a criminal prosecution or a personal action to recover damages for an alleged injury, and that the propriety of the course of the magistrate, in entertaining jurisdiction in the matter, may be affected by the determination of that fact. As the complaint was dismissed by the magistrate it has become of little importance.

With reference to the correctness of the rulings of Commissioner Shannon, I cannot find in your statement sufficient facts to enable me to judge of this. You will allow me, however, to add that, even were the facts more fully stated, I should not think that I could pass upon them with propriety.

With reference to the hope which you express that some means may be found for preventing the repetition of such decisions, I beg to renew the expression of an opinion long ago formed and expressed, that it is for the interest both of Great Britain and the United States to conclude a consular convention which may confer upon their respective consuls jurisdiction in cases similar to those of which you complain.

I know of no better means for preventing dissatisfaction on the part of ship-owners with proceedings like these. Experience has proved that consuls can be trusted to do justice in the disputes which are ever

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arising between masters and seamen. Experience also proves that the purest and best-administered local courts are looked upon with jealous eyes when they exercise jurisdiction over officers and crew of a foreign vessel.

I have, &c.,

HAMILTON FISH.

No. 186.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *April* 9, 1873. (Received April 10.)

SIR: With reference to my note of the 20th ultimo, and to yours of the 7th instant, of which I have the honor to acknowledge the receipt, I regret that I should not have conveyed more clearly the nature of the representation which I was instructed by Lord Granville to submit to you, with regard to the payment of tonnage-dues in ports of the United States by steamers carrying the English flag and belonging to regular lines plying between the two countries.

I did not certainly mean to signify that complaint has been made to Her Majesty's government of a discrimination between the vessels of the United States and those of Great Britain in this respect adverse to Great Britain.

Her Majesty's government has been given to understand that in consequence of the provisions of the IVth article of the treaty of July 17, 1858, between the United States and Belgium, a regular line of steamers now plying between the two countries has been exempted from the payment of tonnage-dues in the ports of the United States, and that, for a similar reason, the same exemption has been granted to a line of steamers from Bremen to the United States.

It was therefore the advantage over British lines of steamers enjoyed by steamers to which the above-mentioned exemption is granted, which I desired to point out to you in my note of the 20th ultimo.

It is consequently as a matter of comity, and on the principle generally observed by the United States, of granting equal commercial advantages to all foreign nations, that Her Majesty's government hopes that the Government of the United States may think it right to grant to British shipping interests a similar exemption from the payment of tonnage-dues to that now accorded to certain foreign ship-owners under the treaty engagements of their respective countries, especially when it is considered that no tonnage-dues of the same kind are levied in the ports of the United Kingdom.

I have, &c.,

EDW'D THORNTON.

No. 187.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *May* 1, 1873. (Received May 2.)

SIR: In compliance with an instruction which I have received from Lord Granville, I have the honor to transmit herewith, for the information of the Government of the United States, two copies of a dispatch

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which his lordship has addressed to Her Majesty's ambassador at Constantinople, on the report of the international commission which was lately convened at Constantinople, on the subject of judicial reform in Egypt, and which shows the conclusion at which Her Majesty's government has arrived.

I have, &c.,

EDW'D THORNTON.

Earl Granville to Sir H. Elliot.

No. 78.] FOREIGN OFFICE, *April* 15, 1873.

SIR: Her Majesty's government have duly considered, in consultation with the law-officers of the Crown, the report of the commission on judicial reforms in Egypt, inclosed in your excellency's dispatch No. 69, of the 4th of March.

They have had before them, also, memoranda communicated to them by the French ambassador on the 28th and 31st of March, of which I inclose copies for your information.

I have now to acquaint your excellency that Her Majesty's government are for themselves prepared forthwith to accept the proposed arrangements, and to sanction the report of the international commission.

The only point raised in the French memoranda, to which I think it necessary specifically to allude, is that relating to consular jurisdiction in matters of bankruptcy.

Her Majesty's government consider that the consular jurisdiction should not have jurisdiction upon the personal status as affected by bankruptcy in Egypt, and that such jurisdiction, until some serious inconvenience is found practically to exist, should be committed to the newly-erected tribunal.

There only remains the question as to the form in which the assent of the powers should be given to the new system of judicature to be established in Egypt; and as regards this point Her Majesty's government consider that the sanction of the Sultan should be obtained; and that the best mode of preserving the rights of the Porte and of the Khedive would be that the Sultan should issue a firman to the Viceroy, recommending the adoption of the changes; and that this firman should be communicated to, and receive the consent of, the powers interested. By this means the consent of the Sultan, of the Khedive, and of the powers interested would be obtained to the very particulars of the changes introduced.

Your excellency will communicate to the Porte the conclusions at which Her Majesty's government have arrived in regard to these matters, and Her Majesty's representatives at foreign courts will be instructed to do so likewise to the governments to which they are respectfully accredited.

I am, &c.,

GRANVILLE.

[Translation.]

Remarks in relation to the plan for the reform of consular jurisdiction in Egypt.—(*Communicated to Earl Granville by Count d'Harcourt, March* 28, 1873.)

The representatives of the various governments at Constantinople have received information concerning the labors of Nubar Pasha in regard to the final regulations of judicial organization which are intended to fix the terms of the understanding established, after long negotiations, between the Khedive and the powers, for the reform of consular jurisdiction in Egypt. The new plan of the Egyptian minister corresponds pretty faithfully to what was agreed upon, either at the time of the examinations jointly made in 1869 and 1870 by all the parties interested, or during the course of the late conferences held at Constantinople. Nevertheless, certain passages in the draught of Nubar Pasha ought to be amended, in order that they may reproduce the exact embodiment of the thought expressed by the various cabinets.

Among the modifications which it would be proper to ask for, there is one which is desirable in view of the importance of the interests at stake. It must be well understood that the new Egyptian courts shall take no part even in the incidental discussion of the various questions which relate to the personal status of foreign residents, and in order to prevent any misunderstanding on this head it would be indispensable again to introduce, in article 9 of the new draught, the express mention which was made in the

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draught prepared in 1870 at Paris, with the concurrence of Nubar Pasha, and then approved by the majority of the powers. It cannot, in fact, be admitted that, under any pretext, the new jurisdiction to which the powers consent to transfer a part of the prerogatives of consular justice, can at any time decide concerning the nationality, the filiation, the rights as heirs or as married persons, or the civil or commercial political capacity of foreign subjects who may visit Egypt on business. Jurists in the various countries declare, almost unanimously, that questions of this nature should be settled according to the national law of the party interested. Some even deny that a foreign judge can, of right, take cognizance of them. But whatever may be the case as regards the general doctrine, it is certain that, under present circumstances, the governments have no intention of abandoning this class of cases to the Egyptian courts, and the limit of their concessions must be placed beyond all controversy.

The precautions stipulated for by the Egyptian government, with a view to securing, on the part of Europeans, respect for the new magistracy and the executions of its decisions, cannot fail to awaken the concern of the cabinets as regards the reciprocity of guarantees which their citizens are entitled to claim in their turn. This side of the question seems not to have been treated in the work of Nubar Pasha, and yet natives will find in the peculiar conditions of life in the East, were it, for instance, only in the inviolability of harems, so many opportunities of placing their persons and property beyond the reach of judgments rendered against them, that it would by all means be prudent to make provision for the difficulties which the course of justice may meet with, in this way, to the detriment of foreign residents.

At all events, and admitting that the powers are to adhere for the present, excepting a few inconsiderable modifications, to the terms of the last Egyptian draught, the time seems to have arrived for the precise definition of the form in which is to be stated the collective understanding of the powers, and their adhesion to the organic regulations proposed by the Viceroy. In order that the work of reform, to which the powers have lent their co-operation, may assume a serious character, in order that the bearing of the concessions made may be clearly established, and in order that the guarantees which have been furnished in exchange therefor may be placed beyond all controversy, it seems essential that the different points of agreement which have been reached should be determined in such a form as to obligate the Viceroy toward the governments and to maintain among the latter the solidarity which is indicated by the community of their interests. Among the combinations which might be adopted the most simple seems to be to enter, in a collective record, either at Constantinople or at Cairo, the regulations which may be presented by the Egyptian minister, and to secure in the same instrument, which might, if necessary, remain open, the successive or simultaneous adhesion of the different powers.

Continuation of the remarks in relation to the plan for the reform of consular jurisdiction in Egypt.

MARCH 31, 1873.

It appears from the latest advices received from Constantinople that the omission of the clause relative to personal status in the recent work of Nubar Pasha, concerning the judicial organization, seems purely fortuitous, and that the re-establishment of this stipulation would give rise to no difficulty. However, some confusion may have existed on this subject in the minds of the commission of delegates of the representatives of the powers at Constantinople, and it seems opportune to elucidate the question thoroughly, for the prevention of any misunderstanding in future. The commission has included among the crimes and offenses which are to be considered as committed against the execution of civil or commercial sentences of the new courts, the acts characteristic of fraudulent bankruptcy; this presupposes the existence of a judgment declaring that a failure has taken place. Now, a judicial declaration of failure is an act which affects the personal status; it greatly alters the legal condition, the civil, and even the political capacity of the individual who is its object, and it seems impossible to admit that it can be pronounced against a foreigner by the jurisdiction of the country without infringing upon the essential rights which the powers have always meant to reserve to their consuls. It is, therefore, important very clearly to establish the part that is to be taken by the two courts in cases of bankruptcy, and the guarantees that shall be enjoyed, in virtue of the new organization, by native creditors. Consular justice ought to retain cognizance of the question of personal capacity; Egyptian justice should decide questions relating to the interests in dispute.

Such is, in this complicated matter, the solution which seems the most conformable to the logic of law, and which is most easily reconciled with the respect due to the respective situations. The powers have the greatest interest in causing these principles to prevail, and in including, so that no dispute or doubt may arise on this head,

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declarations of bankruptcy among the matters reserved, as belonging to personal status, to consular jurisdiction.

There is another matter which claims the solicitude of the powers, and in view of which it would seem good for them to make their reserves before acquiescing in the installation of the new order of things. This refers to the guarantees necessary to secure in Egypt, on the part of the natives, the execution of the sentences pronounced by the new courts. Egyptian residents have the greatest interest in obtaining, in matters of this kind, the positive satisfaction of which they have hitherto been deprived. It is the more urgent to supply this defect, seeing that no precaution has been neglected in order to secure the execution of the new territorial justice as regards Christians. The immunities which rendered their domiciles, and sometimes their persons, inviolable, are subjected to all the restrictions which it was possible to demand; the powers have granted all guarantees, and have advanced, in this path, to the utmost limit of admissible concessions. They will thus have a stronger right to claim similar securities for their citizens.

No. 188.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *May* 31, 1873. (Received May 31.)

SIR: In my note of the 1st instant, I had the honor to transmit to you a copy of a dispatch which Earl Granville had addressed to Sir H. Elliot, instructing his excellency to communicate to the Porte the conclusions at which Her Majesty's government had arrived in regard to the forms in which the assent of the Porte, of the Khedive, and of the powers represented in the International Commission on Judicial Reforms in Egypt, should be recorded in regard to the new system of judicature to be established in that country.

Since that dispatch was written, however, Lord Granville has received a dispatch from Sir H. Elliot, of which I have the honor to inclose two copies, stating his reasons for considering that, in lieu of the course suggested in the above-mentioned dispatch, it would be desirable to follow that proposed in Lord Granville's note to M. de Lavalette, of the 22d of July, 1870, a copy of which was transmitted to you in my note of August 18, 1870, namely, "that it shall rest with the Viceroy of Egypt to obtain the assent of the Sultan to the proposed reforms, and with the Sultan to make known to the different powers that these reforms are sanctioned by him." Lord Granville has now instructed me to inform you that, after consultation with the law-officers of the Crown, he has concurred in Sir H. Elliot's suggestion.

His lordship also instructed me to forward to you two copies, herewith inclosed, of a dispatch which he has addressed to Sir H. Elliot, by which you will perceive that Her Majesty's government lays down as a condition of its final acceptance of the new judicial system the maintenance of the principle that no preponderance should be accorded to one nationality over another in the appointment of the judges for the new tribunals or in filling up vacancies whenever they may arise.

I have, &c.,

EDW'D THORNTON.

Sir H. Elliot to Earl Granville.

No. 125.] CONSTANTINOPLE, *April* 27, 1873. (Received May —.)

MY LORD: I received, by the messenger Harbord, your lordship's dispatch No. 78, of the 15th instant, upon the question of the Egyptian judical reforms.

With regard to the form in which the assent of the powers should be given to the new system, Her Majesty's government consider that the best mode of preserving the rights of the Porte, and of the Khedive, would be for the Sultan to issue a firman to

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the Viceroy recommending the adoption of the changes, and that the firman should be communicated to and receive the assent of the powers interested.

I would beg your lordship's permission to be allowed to point out some objections which my experience in the mode of proceeding here leads me to consider this proposal to be open to.

An imperial firman has the character of a formal and absolute order imposed upon the person to whom it is addressed, and it would be altogether at variance with the nature of such an instrument if it were merely to "recommend" the adoption of a particular course.

It is also to be borne in mind that although the Sultan's government may come to an understanding with foreign powers as to the nature of a proposed firman, they would never, when it was once issued, submit it to them for their consent. But if these difficulties did not exist at Constantinople, others would be found in Egypt where the Viceroy would unquestionably resent the issue of a firman, which he would regard as an infringement upon the freedom of internal administration which has been secured to him.

The sovereign's authorization for carrying out the reforms had been formally communicated to His Highness by vizirial letter, both the project and the codes having received the sanction of the imperial government; so that, as between the Sultan and the Khedive, there appears no doubt that everything has passed regularly, and with a due regard to their respective positions.

What Her Majesty's government have, I apprehend, in view, and what, as a matter of principle, it is so important not to lose sight of, is, that an arrangement which will have the effect of, to a certain extent, modifying treaty stipulations, should not come into force without its ratification by the sovereign being formally signified to the other powers.

I would submit to your lordship's consideration whether the above object would not be attained in an unobjectionable manner by the course suggested in your note to M. de Lavalette of July 22, 1870, in which it was stated that it would rest with the pasha to obtain the assent of the Sultan, and with the Sultan to make known to the different powers that these reforms are sanctioned by him.

It is the latter portion of this proposal that has yet to be complied with.

The simplest mode of proceeding would probably be, to notify to the Viceroy that Her Majesty's government have accepted the scheme, and are ready to allow its application to British subjects as soon as it is intimated to them by the Porte that the Sultan has given it his sanction; and, if Her Majesty's government should think it desirable, I have no doubt that the Porte, in expressing their assent, would be ready to communicate a copy of the authorization which had been given to the Viceroy.

The sanction of the Porte to the principle upon which this reform has been devised was an indispensable condition, but I doubt whether it would be advisable or prudent to do anything to imply that they are called upon to pronounce upon the details.

In the course of working, experience will inevitably bring to light errors and defects which will require correction; and it will be easier to have them remedied by direct negotiations between the powers interested and the Egyptian government, if it can be done as a matter of internal administration, not necessitating an application to the Porte.

I have, &c.,

HENRY ELLIOT.

Earl Granville to Sir H. Elliot.

No. 110.] FOREIGN OFFICE, *May* 15, 1873.

SIR: I stated to you in my dispatch No. 73, of the 15th of April, that, for themselves, Her Majesty's government were prepared forthwith to accept the proposed arrangements respecting judicial reforms in Egypt, and to sanction the report of the international commission.

In your dispatch No. 111, of the 19th of April, you give an account of a conversation with the French embassador respecting the nationality of the judges to be named for the new tribunal.

It is of course very important that, in the selection of the judges, care should be taken not to give any preponderance to one nationality over another, and that the same rule should be observed in supplying any vacancies that may, from time to time, occur among them.

Her Majesty's government consider this point so essential, not only for the interest of British litigants, but also to secure the new tribunals from any suspicion of partiality, that, to prevent any question of this kind hereafter arising, they desire your excellency to make their final acceptance of the new system dependent on the maintenance of this point.

I am, &c.,

GRANVILLE.

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No. 189.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *June* 19, 1873. (Received June 19.)

SIR: I have the honor to refer you to a note addressed to Mr. Bancroft Davis by Mr. Pakenham on the 10th of September, 1871, asking the consideration by the Government of the United States of a proposal made by the government of Newfoundland that American fishermen should be admitted to the right of taking seals within the territorial jurisdiction of Newfoundland on the condition of the admission of the produce of the Newfoundland seal-fishery into the United States free of duty.

Mr. Bancroft Davis replied, on the 23d of the same month, that the subject would receive consideration, but that the proposal was one which needed congressional approval before it could be definitively accepted by the Department of State.

In compliance with an instruction which I have received this morning from Earl Granville, I have the honor to inquire whether any steps have been taken by your Department with a view to carry out the proposal made by the government of Newfoundland, with regard to which Mr. Bancroft Davis was at the time informed that Her Majesty's government would be glad if it could be acceded to.

I have, &c.,

EDW'D THORNTON.

No. 190.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *June* 19, 1873. (Received June 19.)

SIR: In compliance with instructions which I have received from Earl Granville, I have the honor to transmit herewith copy of an act which has been passed by the legislature of Newfoundland to carry into effect articles 18 to 25 of the treaty of May 8, 1871. I am at the same time instructed to inquire whether the President of the United States will be prepared on the 1st of July next to issue a proclamation with reference to Newfoundland, in accordance with the 2d section of the recent act of Congress relating to the treaty of Washington.

In that case, the governor of Newfoundland would be instructed to issue a similar proclamation, fixing the day on which the act and the articles of the treaty applicable to Newfoundland shall take effect in that colony.

I am, therefore, instructed to propose to you to sign a proctocol with regard to Newfoundland similar to that which I had the honor to sign with you on the 7th instant, with the addition of a clause following as nearly as possible the proviso at the end of the first article of the Newfoundland act, namely, that the laws, rules and regulations of the colony relating to the time and manner of prosecuting the fisheries on the coast of the island shall not in any way be affected by the suspension of the laws of the colony which operate to prevent articles 18 to 25 of the treaty of Washington from taking full effect during the period mentioned in the 33d article of the treaty.

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With respect to the day on which the above-mentioned articles should take effect in Newfoundland, Lord Granville has been informed by the colonial office that, under the imperial act of the last session of Parliament, relative to the fishery articles of the treaty, the governor of Newfoundland can only issue his proclamation extending those articles to Newfoundland during the suspension of certain acts of Parliament, which acts will only be suspended when the act of Congress of the United States shall have come into force. As this will not take place until the 1st of July, it appears that the governor's proclamation cannot be issued before that date, and the protocol should therefore fix the 2d or 3d of July as the day for bringing the articles of the treaty into effect in Newfoundland.

I have, &c.,

EDW'D THORNTON.

AN ACT relating to the treaty of Washington, 1871.

Whereas a treaty between Her Majesty and the United States of America was signed at Washington on the 8th day of May, 1871, and was duly ratified on the 17th day of June, in that year, which, among other things, contained the following article:

"It is further agreed that the provisions and stipulations of articles 18 to 25 of this treaty, inclusive, shall extend to the colony of Newfoundland so far as they are applicable. But if the Imperial Parliament, the legislature of Newfoundland, or the Congress of the United States, shall not embrace the colony of Newfoundland in their laws enacted for carrying the foregoing articles into effect, then this article shall be of no effect; but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair any other articles of this treaty."

And whereas it is expedient to provide for giving effect, as regards the island of Newfoundland and its dependencies, to said articles 18 to 25 of said treaty, inclusive, so far as they are applicable to this colony:

Be it therefore enacted by the governor, legislative council, and assembly, in legislative session convened, as follows:

I. As soon as the law required to carry into operation, on the part of the United States of America, the articles set out in the schedule to this act has been passed by the Congress of the United States, and come into force, all laws of this colony which operate to prevent the said articles from taking full effect shall, so far as they so operate, be suspended and have no effect during the period mentioned in the article numbered 33 in the schedule to this act; provided, that such laws, rules, and regulations relating to the time and manner of prosecuting the fisheries on the coasts of this island shall not be in any way affected by such suspension.

II. The governor in council, by any order or orders to be made for that purpose, may do anything further, in accordance with the spirit and intention of the treaty, which shall be found necessary to be done on the part of this island, to give full effect to the treaty, and any such order shall have the same effect as if the object thereof were expressly provided for by this act.

III. This act shall not come into force until Her Majesty's assent thereto shall have been given, and until the issuing of a proclamation under provisions of section two of the act of the Imperial Parliament entitled "The treaty of Washington act, 1872," and shall remain in force during the term of years mentioned in article 33 in the schedule to this act.

No. 191.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *June* 24, 1873. (Received June 26.)

SIR: With reference to my note of the 13th instant, on the subject of deck-loads, I have now the honor to transmit herewith three copies of

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a law on the same subject which was passed by the Parliament of Canada, and was assented to, in the Queen's name, by the governor-general on the 23d ultimo.

I have, &c.,

EDW'D THORNTON.

[Inclosure.]

AN ACT respecting deck-loads.

Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. In this act the word "ship" includes every description of vessel used in navigation not propelled by oars; and the word "master" includes any person having command or charge of a ship.

2. Every ship shall be subject to the provisions of this act—

(1.) When sailing after the first day of October or before the sixteenth day of March in any year, on a voyage from any port in Canada to any port in Europe, and during the voyage while within Canadian jurisdiction; and

(2.) No master of any such ship shall place, or cause or permit to be placed or remain, upon or above any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed-in space thereon and available for cargo, the tonnage of which forms part of the register tonnage of such ship—

(*a.*) Any square, round, wany, or other timber.

(*b.*) ———

(*c.*) Any cargo of any description, to any height exceeding three feet above the deck, or not so dressed and prepared for use.

3. Every ship shall be subject to the provisions of this act—

(1.) When sailing, after the fifteenth day of November, or before the sixteenth day of March, in any year, on a voyage from any port in Canada to any port in the West Indies, and during the voyage while within Canadian jurisdiction; and

(2.) No master of any such ship, if she be a single-decked vessel, shall place, or cause or permit any cargo whatever to be placed or remain, upon or above the deck to a height exceeding by more than six inches that of the main rail, nor in any case greater than four feet six inches above the deck; nor, if she has a spar-deck, shall he place, or cause or permit to be placed or remain, any cargo on or above any part of such spar deck: except that this provision shall not be understood to prevent such master from carrying two spare spars or store spars, made, dressed, and finally prepared for use, on the deck or on the spar-deck of such vessel.

4. *Provided always.* That if the master of any ship subject to the provisions of this act, under the second section thereof, considers that it is necessary, in consequence of the springing of a leak, or of other damage received or apprehended during the voyage, to remove any portion of the cargo thereof, and to place upon any part of the upper deck thereof, not included as mentioned in the said second section, any other or greater portion of such cargo than is by the said second section permitted to be placed upon such part of the upper deck of such ship; or if the master of any ship subject to the provisions of this act, under the third section thereof, considers that it is necessary, from any such cause as aforesaid, to remove any part of the cargo and to place it on the deck or on the spar-deck of such vessel, (as the case may be,) he may remove or cause to be removed to and placed upon such part of the upper deck, or on the deck or spar-deck of such ship, so much of the cargo thereof, and may permit the same to remain there for such time as he considers expedient.

5. Before any officer of the customs permits any ship subject to the provisions of the second section of this act to clear out from any port in Canada, he shall ascertain that no square, round, wany, or other timber, nor more than five spare spars, or store spars, nor any cargo of any description, to any height exceeding three feet above the deck, is or are piled, or stored, or placed upon any part of the upper deck of such ship, not included within the limits of any break, or poop, or any other permanently closed-in space thereon, available for cargo, and the tonnage of which forms part of the register tonnage of such ship, and shall give the master of such ship a certificate to that effect.

6. Before any officer of the customs permits any ship subject to the provisions of this act, under the third section thereof, to clear out from any port in Canada, he shall ascertain that no provision of the said third section is contravened in respect of such ship and the cargo thereof, and shall give the master of such ship a certificate to that effect.

7. No master of any ship shall sail in such ship, when subject to the provisions of this

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act, from any port in Canada, until he has obtained the certificate required in the case of such ships from the proper officer of the customs.

8. Every master of a ship subject to the provisions of this act, who contravenes any provision of this act, shall for each such contravention incur a penalty not exceeding, except as hereinafter provided, eight hundred dollars.

9. Every master of a ship subject to the provisions of this act, who, after having complied with the provisions of this act requiring him to obtain a certificate, as aforesaid, from the proper officer of the customs, contravenes any other provision of this act, shall incur a penalty not exceeding eight hundred dollars.

10. Whosoever being the master of any ship, with intent to evade any provision of this act, sails in such ship after the first day of October, or before the sixteenth day of March, in any year, from any port in Canada to any port in Europe without such certificate as last aforesaid, and with any cargo on any part of the upper deck of such ship not included within the limits of any break or poop, or any other closed-in space thereon available for cargo, and the tonnage of which forms part of the register tonnage of such ship, or sails in such ship after the fifteenth day of November, or before the sixteenth day of March, in any year, from any port in Canada to any port in the West Indies, with any cargo upon the deck, or on the spar-deck of such ship (as the case may be) which would prevent his rightfully obtaining such certificate, is guilty of a misdemeanor, and shall be liable to be punished by imprisonment for any term not exceeding two years, and not less than three months, or by fine not exceeding eight hundred dollars, or by both fine and imprisonment in the discretion of the court before which he is convicted.

11. Any ship, in respect of which any penalty is incurred under this act, may be seized and detained by order of the court by or before which such penalty is imposed or recovered until such penalty be paid, or security given for the payment thereof, and unless payment be made or satisfactory security be given within thirty days, such ship may, at the expiration thereof, be sold by order of the court, and the said penalty and all the costs paid out of the proceeds, the surplus (if any) being paid over to the owner of the ship.

12. The whole of every pecuniary penalty recovered under this act shall belong to Her Majesty, and shall be paid over to the receiver-general by the officer or person receiving the same, and shall be thereafter appropriated in such manner as the governor in council may direct in each case.

13. This act shall not apply to any vessel sailing from British Columbia.

No. 192.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, June 25, 1873.

SIR: I have the honor to acknowledge the reception of your note of the 19th instant, transmitting, in compliance with instructions from Earl Granville, a copy of an act passed by the legislature of Newfoundland to carry into effect articles 18 to 25 of the treaty of May 8, 1871. In this note you state that you are instructed to inquire whether the President of the United States will be prepared on the 1st of July next to issue a proclamation with reference to Newfoundland, in accordance with the second section of a recent act of Congress relating to the treaty of Washington.

An examination of the act passed by the legislature of Newfoundland discloses that the suspension by that legislature of the laws which operate to prevent the articles referred to of the treaty from taking full effect, is qualified and is accompanied by a proviso that certain laws, rules, and regulations relating to the time and manner of prosecuting the fisheries on the coasts of Newfoundland are not to be in any way affected by such suspension.

From your note of 20th instant, I understand that, from a report made by the attorney-general of Newfoundland to the governor, it would ap-

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pear that the proviso referred to contemplates a restriction, in point of time, of the herring fisheries on the western coast of the island.

The treaty places no limitation of time within the period during which the articles relating to the fisheries are to remain in force, either upon the right of taking fish, on the one hand, or of the exemption from duty of fish and fish-oil, (as mentioned therein.)

I regret, therefore, that the act of the legislature of Newfoundland, which reserves a right to restrict the American right of fishing within certain periods of the year, does not appear to be such consent on the part of the colony of Newfoundland to the application of the stipulations and provisions of articles 18 to 25 of the treaty as is contemplated by the act of Congress to which you refer, and in accordance with which the proclamation of the President is to issue.

I have, &c.,

HAMILTON FISH.

No. 193.

Sir Edward Thornton to Mr. Davis.

WASHINGTON, *July* 9, 1873. (Received July 9.)

SIR: I have the honor to inform you that I have just received a telegram from Earl Granville, stating that recent reports from Dr. Kirk, Her Majesty's consul at Zanzibar, bear testimony to the cordial assistance afforded by the vice-consul of the United States in procuring the signature by his highness the Sultan of Zanzibar of the treaty relating to the slave-trade, and instructing me to thank the Secretary of State of the United States for the valuable co-operation of their agent.

I have much pleasure in informing you of the contents of Lord Granville's message, and shall feel much obliged to you if you will make Mr. Fish acquainted with them.

I have, &c.,

EDW'D THORNTON.

No. 194.

Sir Edward Thornton to Mr. Davis.

CATSKILL STATION, *July* 18, 1873. (Received July 19.)

SIR: In compliance with an instruction which I have received from Lord Granville, I have the honor to transmit herewith, for the information of the Government of the United States, a copy of the treaty which has been concluded with the Sultan of Zanzibar for the suppression of the slave-trade.

I have, &c.,

EDW'D THORNTON.

Treaty between Her Majesty and the Sultan of Zanzibar for the suppression of the slave-trade.

In the name of the Most High God, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Highness the Seyyid Barghash-bin-Said, Sultan of Zanzibar, being desirous to give more complete effect to the engagements entered

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into by the Sultan and his predecessors for the perpetual abolition of the slave-trade, they have appointed as their representatives to conclude a new treaty for this purpose, which shall be binding upon themselves, their heirs, and successors, that is to say, Her Majesty the Queen of Great Britain and Ireland has appointed to that end John Kirk the agent of the English government at Zanzibar, and His Highness the Seyyid Barghash, the Sultan of Zanzibar, has appointed to that end Nasir-bin Said, and the two aforenamed, after having communicated to each other their respective full powers, have agreed upon and concluded the following articles:

ARTICLE I.

The provisions of the existing treaties having proved ineffectual for preventing the export of slaves from the territories of the Sultan of Zanzibar in Africa, Her Majesty the Queen, and His Highness the Sultan, above named, agree that from this date the export of slaves from the coast of the mainland of Africa, whether destined for transport from one part of the Sultan's dominions to another or for conveyance to foreign parts, shall entirely cease. And His Highness the Sultan binds himself to the best of his ability to make an effectual arrangement throughout his dominions to prevent and abolish the same. And any vessel engaged in the transport or conveyance of slaves after this date shall be liable to seizure and condemnation by all such naval or other officers or agents and such courts as may be authorized for that purpose on the part of Her Majesty.

ARTICLE II.

His Highness the Sultan engages that all public markets in his dominions for the buying and selling of imported slaves shall be entirely closed.

ARTICLE III.

His Highness the Sultan above named engages to protect to the utmost of his ability all liberated slaves, and to punish severely any attempt to molest them or to reduce them again to slavery.

ARTICLE IV.

Her Britannic Majesty engages that natives of Indian states under British protection shall be prohibited from possessing slaves, and from acquiring any fresh slaves in the mean time* from this date.

ARTICLE V.

The present treaty shall be ratified and the ratifications shall be exchanged at Zanzibar as soon as possible, but in any case in the course of the 9th of Rabia-el-Akhir, [5th of June, 1873,] of the months of the date hereof. In witness whereof the respective plenipotentiaries have signed the same, and have affixed their seals to this treaty, made the 5th of June, 1873, corresponding to the 9th of the month Rabia-el-Akhir, 1290.

[L. S.] JOHN KIRK,
Political Agent, Zanzibar.

The mean in God's sight,

NASIR BIN-SAID-BIN-ABDELLAH.†

With his own hand.

[The following is evidently intended as the Sultan's ratification of the treaty:]

We have looked into and considered this treaty, and we agree to it and accept it, and we confirm everything which it sets forth, in all its provisions and articles. And we confirm the same on behalf of our heirs and those who may succeed us, giving our firm bond and covenant and our faithful word to carry out all that is set forth in the body of this written document, and to avoid, as much as possible, everything that contravenes it, and, to the best of our ability, not to transgress its provisions and conditions. In confirmation of which we hereto affix our seal and our signature with our own hand this 9th day of Rabia-el-Akhir, 1290, [5th of June, 1873.]

Approved by the poor, the unworthy,

[L. S.] BARGHASH-BIN-SAID-BIN-SULTAN.

Written by his own hand.

Translated by GEORGE PERCY BADGER, *June* 30, 1873.

* The words "in the mean time" are redundant here. They were connected in the original English draught and in my translation, from which they are copied, with the sentence "from and after a date to be hereafter fixed."—G. P. B.

† No seal is appended to this signature. The defect is made good by the seal and signature of the Sultan to the ratifications following.

G. P. B.

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No. 194 *a*.

Mr. Campbell to Mr. Fish.

UNITED STATES BOUNDARY COMMISSION,
SECOND CROSSING OF MOUSE RIVER,
September 22, 1873. (Received October 9.)

SIR: I have the honor to submit for the information of the Department a brief report of the progress of the survey of the northern boundary during the present working season.

Commencing, as the initial point of this season's work, on the western bank of Red River, where an astronomical station on the 49th parallel had been determined last fall, the line has been carried westward, the astronomical stations being established at intervals of twenty miles. Along that portion of the boundary separating the province of Manitoba from the territories of the United States intermediate points have been marked at intervals of one mile; along that part of the boundary west of the province of Manitoba at average intervals of three miles.

Upon the resumption of operations this season the joint commission determined, if possible, to accomplish the survey and demarcation of four hundred miles, with the understanding that in any event the parties should be withdrawn from the field by the 15th of October.

The astronomical parties have completed three hundred and sixty miles, and no doubt is entertained that the station at the four hundredth mile will be determined and established by the 5th of October.

The surveying parties at the date of the last report had completed three hundred and ten miles. Their present position is not accurately known, but no doubt is entertained that they will attain the four hundredth mile by the 5th of October. These parties, in addition to surveying and marking the line, to illustrate the character of the country in its vicinity, embrace in their operations a belt of topography five miles in width.

After reaching the four hundredth mile one of the surveying parties will return to Pembina, and during the winter will finish the topography between Red River and Lake of the Woods. It will then be withdrawn and field-work suspended until next season, during which it is believed that the survey can be carried to the Rocky Mountains, as the remaining distance is only three hundred and sixty miles.

I have, &c.,

ARCHIBALD CAMPBELL,
Commissioner Northern Boundary Survey.

XVI.—GREECE.

No. 195.

Mr. Francis to Mr. Fish.

No. 107.] LEGATION OF THE UNITED STATES,
Athens, February 10, 1873. (Received March 24.)

SIR: On Tuesday, the 28th ultimo, an Italian refugee, named Lorenzo Caratacciolo, residing at Corfu, was decoyed on board the Italian mail steamer, then in that port. It was represented to him that a relative

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on board desired to see him. Caratacciolo had lived some four years in Corfu. He was in business there, and bore the reputation of a sober, industrious, respectable man. As soon as he reached the steamer he was seized by Italian officers and put in irons. The occurrence was in a short time reported on shore. The Greek authorities at once requested the Italian consul to order the release of Caratacciolo. He declined to do so. Subsequently, under instructions from the Greek prime minister at Athens, the chief of police, with a few men of his force, went on board the steamer and formally demanded the delivery of the prisoner into their hands. The captain declined to surrender him, saying that he would resist with all the power at his command any effort that might be made to release the man. The Greek officers were not authorized to adopt violent measures for the enforcement of the demand. The steamer soon sailed, carrying away Caratacciolo, who is now confined in an Italian jail, awaiting, it is said, a trial for murder, alleged to have been committed by him some five years ago.

Mr. Delegeorges, the Greek minister of foreign affairs, addressed a communication to the Italian minister here, Mr. Migliorati, demanding that Caratacciolo should be safely returned to Corfu. Mr. Migliorati replied that he had nothing to do with the case, and should take no action in the matter. What other steps have been or are likely to be taken by the Greek government in this affair I am not advised. It has been suggested that there might be an appeal to the protecting powers (Russia, England, and France) to enforce against Italy a demand for the surrender of the kidnapped man. In conversation with me on the subject, Mr. Delegeorges said:

"This transaction only proves that small powers have no rights. As to the protecting powers, so called, they long since ceased to give us protection or show us mercy."

The public feeling, especially at Corfu, is deeply incensed on account of the alleged kidnapping, the particulars of which, as I have detailed them, were orally communicated to me by Mr. Delegeorges, and also by Mr. Stuart, the British minister here, who received the information by telegraph from Baron Seabury, the British consul at Corfu.

I am, &c.,

JOHN M. FRANCIS.

No. 196.

Mr. Francis to Mr. Fish.

No. 109.] LEGATION OF THE UNITED STATES,
Athens, February 15, 1873. (Received March 12.)

SIR: The general election for the choice of representatives to the Greek chamber commenced on Saturday, the 8th, and continued four days, closing on Tuesday, the 11th instant. In previous dispatches I had, upon misinformation arising from the confusion of old and new styles in computing time, erroneously stated the date of the beginning of the election as the 27th ultimo.

The last previous general election in this kingdom occurred on the 9th, 10th, 11th, and 12th of March, 1872.

Deputies to the chamber are elected to serve for three years. But the King may at any time dissolve the chamber, and order a new election.

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Thus, by royal decree, there have been two general elections in this kingdom within a period of less than one year. The election which closed on the 11th instant was the most quiet one that has occurred in Greece in many years. The only disturbances thus far reported took place at Messenia, where, it is said, three murders were committed, and at Zirochori, in Eubœa, where mob violence prevailed to some extent; but these districts embrace disorderly elements that always appear in more or less tumultuous proceedings on election occasions.

The result of the elections is considered favorable to the existing ministry. By far the ablest opposition leader, Mr. Commonuduros, who has for many years served as deputy from Messenia, obtaining successive elections almost without opposition, has now for the first time suffered defeat in his district. Tricoupi, Delyanni, and Nicolopoulo, standing next to Commonuduros, as strong men of the opposition, have also been defeated.

Mr. Delegeorges, the prime minister, seems to have gained largely in popularity throughout the kingdom by his stubborn resistance of the demands of France and Italy on the Lauriume question. If compelled to yield at last to overruling pressure, a contingency that is by no means improbable, he will be likely to lose a sufficient number of supporters in the new chamber, which is to meet at the capitol on the 26th instant, to insure his speedy downfall.

The following interesting facts have been furnished me regarding Greek elections: "It is computed that every general election costs the government about 800,000 drachmas, and that each candidate spends on an average 3,000 drachmas for election expenses, although it has been known that in the larger towns these expenses amount in the aggregate to as much as 30,000 to 50,000 drachmas. Now, as there are generally about six hundred candidates for the one hundred and ninety odd seats in the Greek legislature, and as two elections have taken place within twelve months, it is estimated that the luxury of a parliament has cost this country something like 5,500,000 drachmas for the year, not including the payment of members and office expenses, which amount to 350,000 drachmas annually, making altogether about $1,000,000 in American money."

I am, &c.,

JOHN M. FRANCIS.

No. 197.

Mr. Francis to Mr. Fish.

[Extract]

No. 108.] LEGATION OF THE UNITED STATES,
Athens, February 22, 1873. (Received March 24.

SIR: * * * * * * *

Referring to my dispatch No. 107, relative to the alleged kidnapping affair at Corfu, I have just finished the perusal of the correspondence on the subject between the Nomarch of Corfu and the Italian consul stationed there.

The facts of the case, as stated by the Nomarch, are substantially as presented in my dispatch referred to. The Italian consul, however, de-

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nies that the refugee Caratacciolo was decoyed on board the Italian mail-steamer as alleged, and asserts that he went on board, without persuasion or stratagem to induce him to do so, just as he had before been in the habit of visiting these vessels. But, on the other hand, I have been shown a memorandum made by Baron Seabury, the British consul at Corfu, in which he states that "two letters were written inviting the departed refugee on board the steamer. One of these letters, much to the point, I have seen." The Italian consul also denies that the captain of the mail-steamer, the Principe Oddone, threatened to resist the Greek police officials by force if they attempted the rescue of the prisoner. He further states that "the sacred asylum accorded to such refugees as Caratacciolo has led to the formation in Corfu of a band of all those malefactors who succeeded in escaping from the pursuit of justice in Italy—assassins, thieves, and unfaithful guardians of revenue—and who extend their machinations to the provinces along the Italian coast, planning the commission of further depredations," &c., and that agents of the Italian police have been for some time employed to frustrate their designs. He then states that if certain of these agents happened to be on board the mail-steamer and arrested an Italian malefactor on that vessel, "they employed no means, direct or indirect, to draw him into their power," &c.

I am informed that the Greek prime minister, Mr. Delegeorges, has demanded of the Italian government the restoration of the deported refugee to his home at Corfu, and that proper reparation be made by it "for," to quote the language of the Nomarch of Corfu, "the insult offered to the sovereign rights of Greece." No reply to Mr. Delegeorges' communication has yet been received.

I am, &c.,

JOHN M. FRANCIS.

No. 198.

Mr. Francis to Mr. Fish.

No. 111.] LEGATION OF THE UNITED STATES,
Athens, March 1, 1873. (Received March 25.)

SIR: The Greek chamber of deputies (first session of the fifth Parliament) was opened by the King on Wednesday, the 26th ultimo, on which occasion His Majesty delivered from the tribune in the parliament-house an address, a printed copy of which in French and a translation thereof in English are herewith transmitted.

It will be seen that the King represents the affairs of the kingdom to be in a good condition, with flattering prospects as respects the future.

Relations with foreign powers are friendly, good order prevails. Brigandage has been extirpated throughout the interior of the kingdom. Negotiations are in progress with the Turkish government for the efficient co-operation of Greece and Turkey to crush out the remnant of brigand bands upon the border. Many persons accused of crime (known as *contumax*) who had fled to the mountains to escape justice—a class that has heretofore largely replenished the ranks of the brigands—have been arrested. Important railway as well as common highway and telegraph enterprises have been projected and only require the approbation of the chamber to insure their completion. Additional

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banking facilities now afforded will have the effect to encourage the trade and industry of the kingdom by materially diminishing the rates of interest heretofore exacted. Measures will be proposed for the improvement of the educational system of the country, so as to render it more practical and beneficial. Measures will also be proposed for the re-organization of the financial policy, so that receipts may cover expenditures, thus preventing a recurrence of annual deficits in the budget.

The chamber is not yet organized for business. It is claimed, in behalf of the ministry, that the government has 110 to 124 supporters out of the 190 deputies elected to the Greek Parliament.

I am, &c.,

JOHN M. FRANCIS.

[Translation.]

Speech of the King of Greece on the opening of Parliament February 26, 1873.

MESSIEURS LES DÉPUTÉS: It is with gladness that I see around me the representatives of the nation, who have come together in order to co-operate with my government for the adjustment of public affairs, in accordance with the opinions and desires of the nation.

My relations with foreign powers are, as heretofore, friendly, and the progress of the country will further strengthen these relations and render them useful in the future.

During the last half-year the authorities have perseveringly occupied themselves with the arrest of *contumax*, and the active prosecution of this work has speedily rid society from that direful anomaly. Brigandage, on the other hand, having been completely extirpated in the interior, has been successfully repulsed on the frontier-line also, and, for its total annihilation on the frontiers, my government has proposed to the Ottoman government the plan of a special convention, which I hope will soon be ratified, to the common advantage, moral and material, of both countries.

To your consideration will be submitted conventions and legislative measures worthy of your earnest study, as they have immediate regard to the development of the resources of the country, which strongly feel the need of such measures, namely:

The establishment of two banks, the *Credit Mobilier* and the *Credit Foncier*, which will develop credit, the most efficacious instrument of modern civilization, will diminish the price of money, will help agriculture, which stands in great need of such institutions, and will facilitate the execution of useful communal and provincial public works.

The construction of two railways from Patras to Pyrgos, and from Piræus to the frontier, near Lamia, which will develop internal communication, and will probably bring the country into direct railway intercourse with other states.

The establishment of an agricultural company for the tuition and application of the new systems of agriculture by means of practical and theoretical schools in all the nomarchies of the country, so that science may strengthen the agricultural powers of our state.

The development of telegraphic communication both in the interior and with foreign countries.

The augmentation and utilization of the existing funds for road-making, so that in a short time the whole system of roads may be completed, the work being conceded by competition to a company.

The re-organization and development of the school of arts, in conformity with the actual wants both of society and the public service. For this object the organization of other educational establishments also will have to be modified.

A new system of conscription, in order to expand the military powers of the nation and render just and not burdensome the service in the army.

Besides these, several other bills will be submitted to your vote, regarding the more perfect application of the principles which regulate our institutions, to the amelioration of the internal administration of the country, and to the execution of useful and productive works. The execution of such works will be facilitated by the credits opened in favor of the state with the new banking establishments for a sum of ten million drachmas on most advantageous terms.

Many changes will be made in the finances of the kingdom, so that the yearly deficit of the budget may be covered. The measures which will be proposed to you with this object you will appreciate in relation to the exigencies which have dictated them.

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not only as regards the return to an equilibrium between receipts and expenses, but also with the object of a better regulation of the internal administration.

The confessed tendency of our nation to progress will, I trust, facilitate our work and realize the hopes which the past of our country has justly inspired. To this end I pray the Most High to confer upon us His help and blessing.

I declare the commencement of the first session of the fifth Parliament.

No. 199.

No. 113.] *Mr. Francis to Mr. Fish.*

LEGATION OF THE UNITED STATES,
Athens, March 1, 1873. (Received March 25.)

SIR: Referring to my dispatch No. 110, I now have to announce that in the case of Lorenzo Caratacciolo, the refugee who was decoyed on board an Italian mail-steamer at Corfu and taken to Italy, the court of appeals at Trani, in that kingdom, promptly decided that the arrest of Caratacciolo was in violation of international law, and granted him liberty on the condition that he should leave Italy within five days. He arrived at Corfu on the 24th ultimo, and was received by a large concourse of citizens, who marched through the streets with banners and music, and made him the hero of the day.

The Italian consul at Corfu alleges that this man Caratacciolo has committed three murders in Italy, and that he is now at the head of an organization in Corfu that has been for some time carrying on a contraband trade, chiefly in tobacco, with near points on the Italian coast. He states that earnest efforts have been made to induce the Greek authorities to surrender the man to be dealt with by the Italian courts, or to remove him to some more remote place in Greece where it will be impracticable for him to execute his contraband business in Italy. Now that the Italian government has conceded the right of asylum in his case, it is argued that, in a spirit of proper international comity, Greece ought to comply at least with the request to have Caratacciolo removed from Corfu. But, on the other side, it is contended that the person in question has violated no law of Greece, that he is a peaceable resident of Corfu, and that there is no authority in law by which the privilege of asylum there can be denied him.

I am, &c.,

JOHN M. FRANCIS.

No. 200.

Mr. Francis to Mr. Fish.

No. 123.] LEGATION OF THE UNITED STATES,
Athens, May 24, 1873. (Received June 16.)

SIR: I inclose herewith a copy of a note addressed by me to Mr. Delegeorges, the Greek minister of foreign affairs, together with a translation of his reply to the same.

Deeming it desirable to acquaint myself by personal observation with the resources and capacities of the country outside of Athens, on

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Monday, May 12, I started upon a brief tour in the Morea and the continental provinces. I was accompanied by the Hon. Ellis H. Roberts, a distinguished representative from New York in our American Congress; by my son, Charles S. Francis, and by George Constantine, esq., late United States vice-consul at the Piræus, who served as our interpreter.

The government having been informed of our intention, provided an escort of soldiers, and, by notice to the local authorities, secured a courteous hospitality in every village through which we passed. The escort was furnished not because it was believed brigands would appear on the route, but as a precaution against possible contingencies. As no inns are found in several of the villages, we were necessarily dependent upon the courtesies of citizens, and the local authorities in every instance were gracious and lavish in their attentions. On every hand the expressions of gratitude to the American people for aid and sympathy to the Greeks in the hardships of their revolution were eloquent and heartfelt, and admiration for our institutions and for the grand progress of our country was expressed in simple language without stint. In several cases the men who "ate American bread and wore American clothing" in the Greek revolution gave utterance to their thanks and their prayers for those whose charity had saved their lives and their cause.

The plain of Argos is heavy with crops ready for the sickle of cereals well cultivated and showing good returns to the acre. Between Itea and Chryso, in the ancient Chryssean plain, the olive and the vine are carefully and extensively cultivated, and very large fields of grain invite the husbandman to a remunerative harvest. It is, however, in the extensive plains about Livadia, and thence to Thebes and the vicinity of the ancient Platæa, that the most varied agriculture is exhibited. Since the civil war began in America, cotton has been introduced, and much land is devoted to it, with handsome profits. The staple is coarse and strong, and is in part used at home, while a part is shipped raw or in thread to Marseilles and to England. At Livadia four factories using water-power prepare the thread, six establishments employ the gin, and four presses are maintained. Women, I was informed, earn from 1½ to 2½ drachma a day (26 to 43 cents) for work in the cotton-fields; and men receive 3 drachma (51 cents) a day, besides provisions, in the vineyards. These wages are higher than those paid in the factories. The shepherds are most poorly paid, some receiving only 60 drachma, ($10,) besides provisions, for their care and exposure for the long period of six months.

In this vicinity, as in other parts of Greece, tobacco is an important crop. The large extent of land planted in cereals promises fair crops, although complaint is made of drouth near Cheronea. Everywhere along our path the olive-groves and the vineyards are well advanced and indicate a prosperous season.

In all the villages included in my visit schools are maintained for boys, and the attendance is reported to be cheerful and in goodly numbers. In Livadia a separate school is provided for girls, and even the peasants favor it. In no other village did I find a girls' school, and only in rare instances are girls, and then only when very young, admitted to the schools provided for boys. Yet a growing interest is expressed in female education, and the prejudice against it is wearing away. On the part of the peasants, objection is yet made that they lose the labor of the girls if they are allowed to attend schools, and education produces unwillingness to work in the fields and to drive the donkeys on the mountains.

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The scantiness of population, even in fertile districts, is noteworthy, and the adherence to agricultural implements of the patterns used in the time of Homer. The resources of the country on this route are adequate with improved methods of agriculture to the support of a much greater number of inhabitants. The proposed railroad, to which a concession has already been given, to connect Athens with Lamia, near the Turkish boundary, will pass through the plain of Cheronea and will bring the cotton districts of Livadia into intimate relations with the railroad system of Europe.

The few days which I was able to devote to this investigation have impressed me deeply with the extent of the natural resources of the country, and with the desire and readiness of the people for development.

They seem to be honest and virtuous, and the mountains as well as the plains attest their patient industry. In their character is good ground for hope for the growth and prosperity of Greece.

I am, &c.,

JOHN M. FRANCIS.

[Inclosure 1.]

Mr. Francis to Mr. Delegeorges.

LEGATION OF THE UNITED STATES.
Athens, May 22, 1873.

Mr. MINISTER: I embrace the earliest opportunity on my return to Athens, after completing a tour of the Peloponnesus and Continental Greece, to thank you most heartily for the courtesies extended by your government to myself and traveling companions during all the time of our journeying. Faithful escorts were furnished us at all points. We were the recipients of kind attentions and generous hospitalities from the frurarchos of Palamedi, the eparch of Argos, the eparch and demarch of Corinth, the eparch of Parnassidus, and the demarch of Crissa, the frurarchos of Amphissa, the demarch of Arachora, the demarch of Darlia, the demarch and frurarchos of Livadia, the demarch and civil and military authorities at Thebes, and other officials in the places named. We are also indebted to Mr. Theodore S. Tripon, of New Corinth, Col. Athanasius Contrantas, of Crissa, a veteran of the revolution, Athanasius Byrinos, of Thebes, and other citizens whose names we cannot now recall, for highly appreciated kindnesses. All seemed to vie with each other in efforts to promote our comfort, give us happy welcome, and afford us opportunities for instructive observations.

Speaking for myself, for my distinguished countryman, the Hon. Ellis H. Roberts, and the others who accompanied us, I may say, Mr. Minister, that our estimate of Greece and its resources has been greatly enlarged, and our judgment of its generous, industrious, and patriotic people has been heightened by our journey through the Morea and the continental provinces, while we have derived the highest satisfaction from an examination of memorials of ancient Greece that contributed to its grandeur.

I embrace the occasion, &c.,

JOHN M. FRANCIS.

[Inclosure 2.—Translation.]

Mr. Delegeorges to Mr. Francis.

ATHENS, *May* ¾, 1873.

Mr. MINISTER: I have had the honor to receive the letter which you were good enough to address to me on the 22d of this month, to express your thanks for the reception which was extended to you by the local authorities and the inhabitants of the country during your late excursion in a part of the Peloponnesus and Continental Greece.

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This cordial reception I anticipated, Mr. Minister, and I am charmed to learn of the favorable impression which yourself and your eminent compatriot, Hon. Ellis H. Roberts, obtained of the districts through which you passed.

I beg now to thank you for all the complimentary and courteous expressions in your letter concerning the manner in which you were everywhere received, the facilities which were accorded to you on the route, and concerning the material progress which you have observed.

Greece cannot fail to gain from the visits of persons as clear-sighted and free from all prejudice as yourself and your fellow-citizens. To be sure much yet remains to be done, but a view of that which has been accomplished, and of the ascending march of civilization, gives good augury of the future, and may serve to dissipate more than one error accredited by ignorance and malevolence.

Although the civil and military authorities, and the individuals so honorably mentioned in your dispatch for the services which they were able to render you, only did their duty in conforming themselves to the habitual hospitalities of the population, and in giving utterance to their traditional friendship and sympathy for the great American people, I will not fail to inform them of the expression of your satisfaction while adding my own acknowledgements.

Be pleased to receive, Mr. Minister, the assurance of my high consideration.

E. DELEGEORGES.

XVII.—GUATEMALA.

No. 201.

Mr. Hudson to Mr. Fish.

[Extract.]

No. 70.] LEGATION OF THE UNITED STATES,
Guatemala, October 17, 1872. (Received May 21, 1873.)

SIR: Now that I have resided in this republic sufficiently long, and under circumstances that enable me to do so advisedly, I propose to record, for the use of the Department, such information of the country as is not usually embraced in official dispatches, or otherwise readily obtainable by it.

The government of Guatemala is republican in theory, but a military despotism in practice; and just now, and too often so, in its worst form. Its *personnel* are clothed with the power, whenever the public exigency calls for such exercise of extreme authority, of increasing the number of its congressional representatives by presidential appointment; and as they are made sole judges of such exigency, it always exists when they fail at the polls to secure the return of a safe working majority of its members, or to retain their loyal adhesion thereafter. This convenient provision is a most fruitful cause of popular discontent, and of open revolt when put into practice, and, as it is embraced in most of the constitutions of the Central American states, and, in some form, put into practice by all of them, it will explain why their normal condition is chronic insurrection; for it will readily be seen that under the practical working of their political theory it is only through successful rebellion a change in the *personnel* in those states can be accomplished.

Another practice, and now being frequently employed, is to declare the elections void in the districts returning opposition members, and at a new election enforce the return of the government candidate through the military.

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An additional motive for engaging in the overthrow of existing governments is furnished in the habitual and gross abuse of power by the party dominant; and which, as soon as it finds itself securely planted in power, deliberately proceeds to arbitrarily arrest, imprison, exact tribute from, and corporally punish and banish and execute its personal and political enemies without other cause or form of trial; and to do so with such indecent haste and barbarous coarseness that revolt becomes a necessity, and the only practical way to end existing abuses of power.

From these causes, and the positive insecurity that must follow pecuniary investments, it will be seen that Guatemala offers no present inducement that will compensate our citizens for transplanting themselves or their capital there.

And still it is a most desirable country, and a most remarkable and interesting one, made strikingly so by its volcanic origin, tropical growth, soft climate, even temperature at all altitudes, and by the wide and opposite character of the pure and mixed races which inhabit it. This want of homogeneousness is another disturbing element, and one that will long employ the best statesmanship in finding that happy concordance of castes without which stable government, domestic tranquillity, and solid progress are made impossible. The country was fortunate in the choice of the late administration, whose earnest efforts were unmistakably given in behalf of domestic harmony and peaceful occupation. Under their statesmanship Guatemala not only grew more stable and prosperous than her sister states, but found the time and the means to largely influence theirs, and particularly that of Salvador. But the chiefs who have lately succeeded have, from a belief that it was the surest and best means of securing their own retention of power, forced both states into a war against long-established usages, and against those who have and continue to uphold them, that must cost them their best blood and property, if they be not soon displaced.

Meantime anarchy will reign, industry suffer, and the government power of both be confined to the districts occupied in force by their troops, and because opposed to and by every element that constitutes their best worth.

Lying between 14° and 18° latitude north, and 89° and 93° longitude west of Greenwich, and bordered east and west by the Atlantic and Pacific, with ports over both oceans, Guatemala enjoys large trade facilities that can readily be improved at small cost with the certain return of large profits.

The general physical aspect of the country is broken and mountainous, occasionally rugged even to sublimity; but there are extensive coast flats on either ocean, and in the interior intermediate plateaus, plains, valleys, hills, and mountains at every height.

From that variety it derives all sorts of climates, soils, and natural produce, agricultural and mineral.

The seasons are divided into wet and dry, of about six months each; the former commencing in April, and ending in November, when the latter begins.

The fertility of the soil in some places is such that three crops of Indian corn and two crops of cochineal are grown annually; and full crops of clover and grass every five or six weeks, and agricultural pursuits can be carried on all through the year. The principal staples raised for exportation are cochineal, coffee, sugar, and indigo; and for home consumption, corn, wheat, rice, potatoes, cotton, wool, and tobacco. Mahogany, ebony, cedar, and every description of intertropical timber,

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and india-rubber and log and other dye woods, are to be found in the forests along her coasts, and constitute a regular article of exportation.

Owing to the broken character of the country throughout its interior, none of the dreaded epidemic tropical diseases prevail there, and but seldom along its coasts, and then but for a short time only. From the same cause but few insectile pests are found in the open and elevated districts; fleas, however, abound there, but the house-fly and mosquito are seldom seen. The mountain air enjoyed at the capital city and like altitudes and exposures is pure, elastic, and strikingly transparent; but I have not found it clothed with the marked invigorating and bracing qualities ascribed to it by Mr. Stephens in his interesting work on Central America. As growth and decay go on incessantly together, and the evil influence of the latter is spread over the entire year, tropical airs must necessarily possess these qualities inferiorly. Sure I am I have never enjoyed a single day of vigorous health through their influence. The climate of the capital city is that of perpetual spring in its mildest form, and such that frosts are unknown and flowers bloom and fruits ripen continuously. The thermometrical variation ranges from 58° to 76° Fahrenheit, the temperature finding the lowest point named during the hours of midday and of midnight, at which time cold winds and moist clouds prevail. The climate of the coast flats is that of perpetual summer, with a mean temperature of 76°, and seldom rising above 90°. The climate of intermediate and higher altitudes corresponds with those given. The flat lands of the Pacific coast run the entire length of the state, have a better climate and soil than those on the Atlantic side, and an average breadth of ten leagues. They are claimed by the native planters to be unsurpassed for growing sugar cane, are comparatively uncultivated, and are instinct with animal and vegetable life. Every animal, reptile, and insect known to tropical countries on this continent abound there; and its primal forests are unsurpassed for giant growth and rich variety. The route to the capital city lies by the way of San José, the coast port on the Pacific, and across these lands and over a good road from that point onward.

From the coast-range, and as you journey inland, scenes of the wildest mountain grandeur, overlooking the softest valley landscapes, are constantly met. And rivers that cast themselves over high precipices and, with torrental force, plow their way to the sea through deep barrancas that wall up nearly perpendicularly, lie on either side. Many villages and valleys are also passed, and their beauty largely increased by the presence of the palm, the olive, the almond, and the orange, and other flowering and fruiting trees of tropical growth. These valleys are well populated, closely but rudely cultivated, and grow in rich abundance and superior excellence most of the products of the country, and the bulk of the cochineal, coffee, indigo, and sugar exported. The valley of Antigua is, perhaps, the most remarkable and highly favored of any in the world as a locality for extended culture and wide variety of products. Formed by the junction of the volcanoes Agua and Fuego, at an elevation of one mile above the sea, and having these on either side, and rising two miles above, and resting on bases over fifty miles in circumference, it finds along their vast slopes every climate and soil needed to grow the products of the three zones, and each product its own native soil with appropriate temperature. The best fruits of the country are grown there, and over thirty Indian villages have their sites around Agua alone. The city of Guatemala is much the largest, and altogether the finest of any in Central America. The native population call it the Paris of Spanish America, and expect

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you to favor their pretension. It is situated eighty-six miles from the coast port by the road, and near the center of an extensive plain elevated 5,300 feet above the sea, and covers a natural plateau that rises 100 feet above, overlooks the plain, and commands a perfect view of the magnificent mountain-ranges that surround the plain, and of five huge volcanoes that stand up grandly and impressively before you.

The plain is seven leagues in length and four leagues in breadth, and is sufficiently undulating for good drainage purposes. The plateau on which the city stands is one league in length and one mile in width, and melts gradually away to the general level of the plain. Deep barrancas cut down below its level over 1,000 feet, and so encircle the city that the port-road gate is the only point from which you can enter without crossing one of them. These barrancas are remarkable for their grandeur of scenery, and for the varying temperature of the fine thermal springs that gush from their sides, and for their medicinal properties. Two large mounds stand isolated near the port-gate, on one of which is built the fort that commands the road and the city, and on the other the church of Calvary. A similar mound stands at the east end of the city, on which the first church built remains and marks its progress west. These mounds are natural formations of nearly solid rock. Two rows of earth-raised mounds cross the plain near the port-road gate, and preserve a true line and even space from each other throughout their course. The mountain-ranges that surround the plain swell in altitude, as they rise in distance, from one to seven thousand feet above its level, but blend together with perfect effect. Three of the volcanoes seen are three miles in height and over fifty miles in circumference; that of Agua is said to have the tallest and most perfect cone of any in the known world. One of the deepest and most attractive of mountain-lakes lies at the southwest end of the plain, and at the foot of the volcanic group of Amatitlan, in which small fish abound. The whole scene forms a vast amphitheater of connecting views that includes within its scope every material element of a perfect landscape. The physical outline presented is certainly one of superior scenic beauty, and the location one of most commanding prospect. You have the agreeable loveliness of the fairest of tropical plains, the mysterious earth-mounds of the mythical Indian, the romantic beauty of mountain-lake scenery with its glimmering, silvery expanse, the imposing grandeur of lofty and swelling mountain-ranges, and the grand and impressive forms of cloud-capped volcanoes under the eye from one stand-point of view—a panorama that for its magnitude and the rare grouping of its auxiliary settings it would be difficult to find elsewhere, especially when seen bathed in the glowing colors of one of the many gorgeous sunsets that chain you there. The mornings at the city are nearly always surpassingly fine, and up to the hour of 10 o'clock are calm and bright and gratefully refreshing. Their constancy of temperature and unvarying loveliness never fail to captivate strangers and visitants, and contrast pleasantly with the rougher weather that succeeds up to mid-afternoon.

About 10 o'clock the clouds, that have for the duration named left the mountain-tops to float across the plain, and shower, should it be the season for rain, return again and bank themselves in huge fantastic forms above them, those in the north resembling aerial glaciers, with increasing density to the opposite pole; the sky overhead grows clearer and deepens in color, the horizon from the extreme east around to the extreme west becomes all aglow, and a truly gorgeous sunset of dissolving views closes the day, protracted by the huge volcanoes Agua and Fuego, behind which the sun sinks.

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Italian residents tell me Guatemala surpasses Italy in the glowing beauty of her rare sunsets, and in the deeper and purer coloring of her unclouded sky.

The city of Guatemala contains many very large and well-constructed private residences, nine principal cathedrals, and nineteen other church-buildings; three hospitals and three colleges that would do credit to any city; one of the best-placed and best theaters extant; an amphitheater that will seat 12,000 persons; a market-block that covers a large square and other noted buildings.

The archbishop's cathedral is situated near the business center of the city, and covers a solid block of 450 feet. It faces the government plaza west and the market-block east. It is built after Saint Peter's in Rome, is pure in its architectural design and finish, and is richly hung with paintings of biblical characters and events, some of which are the work of eminent masters and executed centuries ago. The central part of the pile, which is the chapel proper, rises, in the form of a Latin cross, some 50 feet above the connecting divisions, and the dome about 100 feet. The roof is supported by nine rows of columns that give to the aisles formed, as you look down their lighted passages, the appearance of an illuminated avenue.

The connecting divisions are set apart for church uses—that on the north as the bishop's palace, and that on the south as the College of Infants. The cross-extensions are used to represent the closing scenes of holiday observances, of which they celebrate one hundred and fifty-three annually. The pyrotechnical parts of their public displays are very fine, and that on independence day surpasses everything of the kind I have ever witnessed. On that occasion, in addition to the combination fire-works shown from elevated stands in the plaza, the government buildings, facing solid on the north and west and south blocks of the plaza, are hung with small, variegated, colored lamps, and their arches and columns so draped, wreathed, and festooned that the most imposing and pleasing effect is produced.

The theater is built in the center of a large open square; is constructed with a close observance of acoustic principles, and so as to pass out its audience from front and side doors and its troupe from the rear. A wide hall extends around, and communicates with the boxes by separate doors, and with a commodious promenade-saloon that runs across its entire front, and it combines other conveniences unknown with us. The wall inclosing the square is built with a recess that gives a continuous bench for seating persons, and the back above the recess tastefully carried up after the manner of open panel-work. A wide foot-walk adjoins the wall. Rows of large orange-trees surround the building, and other flowering trees, and statuary, and fountains, and basins are appropriately placed and add to its attractiveness. Here is seen the oleander, 30 feet high, 1 foot in diameter, and with a profusion of bloom, rivaling the crape-myrtle of the Gulf States. This square is the favorite promenade of the *élite* of the city, and the one to which its dark-browed señoritas mostly come to meet and glow their charms before expectant admirers. The opera season is protracted throughout the dry months with performances on Sundays and Thursdays of each week. The private residences of the principal Spanish families cover more ground and combine more conveniences than do ours, and range from 80 by 160 feet up to 200 feet square. They are all built in the form of a hollow square, stand flush with the street, and have a single entrance-way to them. A wide, raised corridor extends around the inside face of the building and overlooks a spacious court, in which raised flower-beds, flowering shrub-

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bery—the orange, the oleander, and other fragrant flowering trees—and statuary, and fountains, and basins are tastefully placed. The dining-saloon extends across the court and completes the square. Behind the dining-saloon the space is divided into two courts by a high division-wall. One division is appropriated for horses and carriages and servants' lodgings; the other for domestic uses generally.

The principal saloon takes up the entire street frontage, less a connecting room and the entrance-way. The city is well supplied with water from the adjacent mountain-streams by two elevated aqueducts, built by the Spaniards a century ago. The rain-fall and waste water are conducted by drains to reservoirs in the suburbs, and the water utilized in irrigating the gardens and meadows in its vicinity. The streets run at right angles and due course with the points of the compass, are 46 feet wide, paved with granite, and kept in fair repair and generally clean. All the buildings are faced with cement, carefully polished down; and being white, or nearly so, largely contribute to the beauty of the city as seen from the adjacent mountain-heights.

The population of the republic is placed at 1,200,000, and of the department of Guatemala 134,000, above one-half of which reside in the city and suburbs. The population is divided about this wise Indians, 750,000, Ladinos, 430,000, Spaniards, pure or nearly so, 10,000, Negroes, pure and mixed, 8,000, and foreigners, 2,000. I very much doubt if there be ten thousand pure whites in Central America of all nationalities and sexes.

The Indians mostly reside apart and in villages; many on the estates of planters, which they cultivate, and a part of them in the towns. Every Indian village has its grand plaza, and the usual church and state buildings, and authorities to govern them, and most of the latter are chosen from their own race. They are made intensely Catholic by the clergy, and partially educated by them in Spanish, which is spoken by all of them.

Here and in their normal state the Indians are industrious, mild, and temperate, but when corrupted by military chiefs and service grow rapacious, fierce, and barbarous, and will then put to death all who fall into their power. Those of them who reside apart and in villages raise most of the fruits and produce marketed, and fabricate most of the articles in domestic use and sold in the shops. The Indian's dress distinguishes his local habitation; and yet with some slight change of color, or manner of wear, they dress alike. The best wear of the male consists of a straw hat, short-sleeved shirt, and short breeches, and sandals. The females are more simply and picturesquely clad, seldom sporting more than a loose waistcoat and a short petticoat, while the children of both sexes run nude.

The Ladinos are the issue of the Spanish father and Indian mother, and of after promiscuous intercourse, which a natural roving appetite inclines them to favor, and which they freely indulge. They habitually seek the towns, form a distinct class there, and constitute the mechanic, shop, and servant division. As a class and caste they are much the intellectual superior of the Indian; better educated and less superstitious; but less loyal to church and state, and too often as malignant, treacherous, and dissolute as they can well be.

The tendency of the light and elastic mountain air found at great altitudes is to expand the chest and create a capacity for easy respiration, and to develop in rich fulness the physical person, particularly of those who live in the open air and on simple diet.

From such cause the Ladinos, not injured by early excesses, have fine,

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full chests and good physiques. Especially is this true of the younger and uncorrupted females, who are distinguished for the voluptuous swell of their busts, fine, lithe forms, and erect and graceful carriage, early acquired from a habit of bearing parcels on the head. But the fine physical development described is not confined to the Ladinos. The Indians of the Altos possess it more fully, and the Altos girl particularly. But she is less richly endowed otherwise, and by no means graceful in carriage or movement. Whereas the Ladino girl is not only finely formed, and lithe and graceful, but the most elegant walkist perhaps in the world. Indeed Ladino girls with model forms and perfect busts that stand firm and plump without support, are often met tripping along the sidewalks with inimitable grace and freedom, and with such perfection of elastic footstep as makes theirs the true poetry of human locomotion. From the conquest of the country the Spaniards have continued its governing class and to hold most of its realty. By law the realty and personalty are exempt from taxation, and the government run by impost and export duties and monopoly grants; and when hard pressed by active revolt, forced loans and the confiscation of real and personal property are resorted to. These methods are also employed to enrich its personal. Descendants of the best blood in old Spain and of the chivalrous hidalgos who conquered and peopled the country anew, the leading Spanish families continue to live after the ostentatious and expensive manner introduced by their ancestry, and this their fine estates, cheap labor, and abundant produce enable many of them to do.

Under the severe discipline of their educational system as enforced by the Jesuit fathers, their youth ripen into good scholars, and are made conversant with fashionable etiquette and usages. As a rule, the dons are quiet, reticent, grave, and seemingly impassible, but make fair husbands, and good fathers and neighbors. Studiedly polite and punctiliously exact themselves, they look for a full return from others, and will estimate you by your conduct in matters of etiquette, and even contend with you against being made the recipient of a privilege not theirs by the custom of the country. This characterization does not include the professional, political, and military chiefs of the country; theirs is drawn elsewhere, or indicated. The donas and senoritas—as ladies are the world over—are far more free, impressive, and impressible than the opposite sex. They are charmingly gracious in speech, easy and winning in manner, and will exhaust all their feminine power of blandishment to make the call a pleasant one when visited. They excel in the lighter accomplishments of their sex, and particularly in music and the dance. Some of them have great personal beauty and elegance of carriage; and most of them are blonde, with dark eyes and hair. Those of the better class will compare well with any people for good morals, discreet conduct, and admirable behavior. Whether it is owing to the force of habit, climate, educational or religious training, or to bad government, or to all of these combined, I will not undertake to resolve; but it is readily discoverable that all classes of the native population are wanting in the vigor of thought, restless energy, and wide enterprise that distinguishes our countrymen, and which have placed ours so far in advance of the Spanish American states. Their government is a military despotism in its worst form; their religion is intensely Catholic and offensively intolerant, and their prejudices too closely incorporate with their being for displacement.

Centuries of good government, by way of example, from ours, will produce no reform of church and state abuses with them. A close study of the different castes of the Central American states has con-

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vinced me that republicanism is a plant that requires too much nourishment to flourish under their culture, or to find permanent root there; and that the genius of each unfits them for its acceptance or reduction to practice.

To become republicanized they would have to put on new habits, adopt new usages, largely modify their religious and political theories, and their manner of enforcing them. The change required is altogether too sweeping and radical for their accomplishment, and one they will never undertake so long as the freedom of choice is left with them.

* * * * * * *

I have, &c.,

SILAS A. HUDSON.

XVIII.—HAYTI.

No. 202.

Mr. Bassett to Mr. Fish.

No. 160.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 6, 1872. (Rec'd Nov. 21.)

SIR: The importance which this government has of late apparently attached to the financial condition of the country, and the activity which now appears to characterize its proceedings in this regard, as well as the possible bearings of the subject in other directions, induce me to submit herewith a succinct statement of the financial history of Hayti.

From the date of Haytien independence, in 1804, to 1827, a period of nearly a quarter of a century, specie was the only circulating medium in Hayti. In 1825, however, this government engaged itself to pay to France one hundred and fifty millions of francs as an indemnity for the destruction and confiscation of the property of French subjects durine and subsequent to the war of independence. The drain made upon the circulating medium in meeting the first two or three installments of this indemnity induced the government of President Boyer to issue a paper currency in the year 1827.

This paper currency had what is termed here a forced circulation, (*cours forcé;*) that is to say, it consisted of notes of the national treasury issued without promise of ultimate redemption in specie, and without bearing any interest. It nevertheless was made a legal tender in all business transactions throughout the republic.

Silver coin stamped with the arms of the republic had been struck under the administration of Petion, and was continued under that of Boyer, the effigies of these chieftains furnishing the stamp for the reverse side of the coins struck under their respective administrations.

The denominations of these coins were one gourde or dollar, representing one hundred centimes, a half gourde, representing fifty centimes, a quarter of a gourde, representing twenty-five centimes, and an eighth of a gourde, representing twelve and one-half centimes. But the gourde or Haytien dollar contains such a large alloy of copper, that although about the size of the American half-dollar, it is intrinsically worth but thirty-three cents, as compared with the silver coinage of the United States or Spain.

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The Haytien centimes are struck in copper, in pieces bearing the denominations of one, two, and six centimes. The Haytien centime bears about the same proportion to the American copper or nickel coinage as the silver coins of the two countries bear to one another; that is to say, one American copper or nickel cent is equal in value to three Haytien centimes.

But notwithstanding this disparity in the intrinsic value of the metallic coin of Hayti and that of the United States and Spain, yet under Petion, and in the first years of Boyer's administration, the Haytien gourde or dollar circulated in this republic at par with the American or Spanish silver dollar. The result was that private parties, principally foreign traders with or merchants residing in Hayti, caused to be coined on their own account Haytien money of the exact value and metallic composition of that which was coined by this government, and brought it into the country for trading purposes. And although the government here was aware of this fact, and several persons are said to have been condemned and executed under Petion and Boyer for being engaged in this coinage, yet it was impossible either to entirely prevent it or to always ferret out the guilty parties who were engaged in this unlawful pursuit. As the private coiner thus gained two hundred per centum while the Haytien gourde or dollar circulated in the republic at par with the American or Spanish dollar, it was a great temptation to traders who were not over-scrupulous to hazard even life itself in the illicit business.

The paper money introduced in 1827 by Boyer was issued in denominations of one, two, and ten gourde bills, which were to circulate as the equivalent of the same denomination in silver coin, though, as already remarked, without any pledge of ultimate redemption in specie, and without bearing any interest. The ten-gourde bills being extensively counterfeited, this denomination was soon withdrawn from circulation by Mr. Boyer. The one and two gourde bills were the only denominations maintained in circulation until the end of his administration, in 1843, when, in consequence of the yearly emission of paper money, the paper currency had in commercial circles depreciated in value so that four gourdes in paper were equivalent to one American or Spanish silver dollar. This showed a depreciation of thirty-three per centum, at the end of sixteen years, in the paper currency as compared with the intrinsic value of the Haytien silver coin, of which three gourdes are the equivalent of the American or Spanish dollar.

The revolutions that followed from 1843 necessitated the continual yearly emission of paper money, and caused it to steadily decline in value so as to be worth but twenty gourdes to the American silver dollar at the fall of Soulouque, in 1859; but thirty gourdes to the American silver dollar at the fall of Geffrard, in 1867, when the emissions had reached the sum of one hundred and twenty million gourdes, ($120,000,000. Finally, at the breaking out of the revolution under Salnave, the contending parties vied with each other in printing paper money and forcing the circulation thereof. This depreciated the value of Salnave's paper to two thousand gourdes ($2,000) to the American silver dollar, and that of the insurgents to six hundred gourdes ($600) to the silver dollar in the different localities of which they were masters. After the triumph of the revolution, in 1870, one of the first steps of the victorious government was to force the Salnave paper out of circulation, by exchanging it against the revolutionary paper at ten gourdes ($10) of Salnave paper money for one gourde of the revolutionary paper. The effect of this measure, by creating a momentary scarcity of the circu-

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lating medium, was to raise for a time the revolutionary paper in value from six hundred to two hundred gourdes to the silver dollar.

This rapid decline in the value of the paper currency during forty-two years of its circulation in Hayti up to 1870 is so overwhelming that the gourde bill having almost reached the vanishing point of monetary value; it would scarcely give any practical or tangible idea of its worthlessness to state in figures the percentage of the depreciation.

Hence, at the triumph of the revolution against Salnave, and the definite inauguration of the government of President Nissage in 1870, the question that seemed uppermost in all minds was that of some radical reform in the monetary system of the republic. Several merchants and other prominent men, mostly Haytiens, discussed in the journals of the country different financial schemes, but all mostly agreeing, with some slight difference of detail, in proposing the withdrawal of the treasury bills from circulation by the negotiation of a loan to effect this, and also to establish a national bank.

The question of a loan to be negotiated abroad occupied the attention of the legislative body in different forms during the session of 1870. But all action was foiled by the unwillingness of the executive and senate to concur with the house of representatives in the adoption of such a measure. The executive seemed content to demand a simple substitution of new treasury notes in place of the old ones, that were so worn and torn that it was with difficulty they could be used for ordinary business transactions. But the house of representatives, to whom belongs the right of originating financial measures, persistently refused to vote a simple substitution, in spite of the reiterated demands to that effect made by the executive during the session of 1870. The legislative body, therefore, adjourned that year without having effected anything in the way of financial reform.

At the next session, in 1871, the executive still remained firm in favor of a simple substitution, and the house of representatives remained none the less firm in its purpose to carry out a more radical reform in the monetary system of the republic. However, the old treasury bills in circulation had now become so tattered that the ends of trade could not be effected by them, and it was absolutely necessary to give some relief, even if it were only momentary. A compromise was therefore agreed upon between the executive and the chambers. On the one hand a simple substitution was voted, as proposed by the executive, to take the place of the torn bills under which commerce groaned, and on the other hand an additional customs duty of ten per centum was imposed on imports and exports, to form a sinking-fund to be devoted to the redemption and withdrawal of the paper money from circulation as soon as possible. This additional duty ought to yield about three hundred thousand dollars in specie per annum.

The substitution, thus reluctantly voted by the corps legislatif as a compromise measure, went into execution in December, 1871. But, during the first three or four months of its operation, there were such abstractions made of the new bills from the public treasury by the undoubted connivance of those charged to carry out the substitution, and so much counterfeiting of the new issue, that the executive himself, in the annual message to the corps legislatif in April, 1872, demanded the entire reform of the monetary system of the republic.

At this juncture the largest foreign commercial house in Hayti, that of White, Hartman & Company, who had evidently been studying the drift of things from the moment that the cry had been made for a financial reform of the currency of the country, came forward with a proposi-

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tion to furnish the government with a loan of fifteen million francs for the redemption and withdrawal of the paper money from circulation. Mr. Hartmann has himself furnished me with the following statement of the proposition of his house:

To pay over to the government here the full equivalent of fifteen million francs, the government paying eleven per centum for the two first years, and then for twelve years running a sum of two million six hundred and forty-six thousand francs for interest and sinking-fund. At the expiration of these twelve years the whole debt would thus have been liquidated.

The only guarantee asked for was a law binding the government to pay over to the lenders a sufficient share of the export duties to cover the yearly payments.

The only difficulty in the way of securing such a loan as the government desired, had been the security which it could offer. I have given Mr. Hartmann's own statement of the security which he claims his house demanded. But there is said to have been another understanding on this point. This understanding is thus stated to me by the head of another large commercial house supposed to be conversant with most large financial transactions here:

The lenders asked as security for the money to be loaned that they should be intrusted with collecting the customs revenues of the island, paying off first the amount due yearly to the French government, and handing over to the Haytien government the surplus, after having deducted the amount due them.

This proposition was, perhaps, not to appear thus stated in a direct way; but it would be extraordinary for a foreign house, fully cognizant of affairs in Hayti, to lend large sums to a government like this, without the amplest security.

The corps legislatif, after having considered in secret session the plan proposed by Messieurs White, Hartmann & Company, declined to accept it on the ground, it is claimed, that it was a foreign loan, which might leave the country open to foreign intervention, an idea supposed to have been suggested by the recent action of Captain Batsch, commander of the German corvette Vineta, in which he initiated hostile proceedings to enforce the immediate payment of the sum of three thousand pounds sterling claimed as an indemnity due to German subjects. It therefore contented itself to apply and extend the principle already commenced in the formation of the sinking-fund.

After several conferences held between the executive and joint committees of the corps legislatif on the ways and means to be adopted, final action was taken, by which it was resolved that the ten per centum additional duties for the sinking-fund should be maintained; that a supplementary duty of twenty-five per centum should be levied on the import and twenty per centum on the export duties; and that the executive should have power to contract in the country a loan of eight hundred thousand dollars, the whole to be applied to the redemption and withdrawal of the paper money from circulation from and after October 1, 1872, at the rate of one dollar specie for three hundred Haytien gourdes or dollars. A commission, composed of seven members, has been named by the corps legislatif to co-operate with the executive in carrying out the plan resolved upon.

The following estimates will show the amount which it is thought that this measure will yield by the end of the fiscal year, September 30, 1873:

Ten per centum sinking fund for two years	$800,000
Twenty per centum and twenty-five per centum suplementary fund	800,000
Domestic loan	800,000
Total	2,200,000

(Two million two hundred thousand dollars gold.)

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That is to say, an amount of about two million dollars in specie, a sum capable of calling in and redeeming six hundred million Haytien gourdes at three hundred to the specie dollar, the rate fixed by law.

The executive and the special commission are now occupied in carrying out the details of this plan. They made application to the house of White, Hartmann & Company to effect the proposed domestic loan of eight hundred thousand dollars, ($800,000,) and published in the meantime various decrees regulating the collection of the extra duties for the fiscal year beginning October 1, 1872. A plan to collect these duties by anticipation each quarter, by allowing a discount of twelve per centum, promulgated by the executive and the special commission, does not seem to meet with much favor or ready acceptance in commercial circles, and is not likely to come up to the government's expectations on this head. Moreover, the refusal by the corps legislatif to acknowledge the forced loan exacted by the Salnave government from Haytien citizens has caused the parties in Europe upon whom Mr. Hartmann relied to supply the funds to make the proposed loan to refuse to have any further dealings with the Haytien government. Indeed, Mr. Hartmann has himself shown me a communication from those parties, expressly enjoining it upon him to incur no responsibilities with this government without previous advices from them.

A subsequent plan set forth by the executive and the commissioners is somewhat more practical and will more probably accomplish the desired object. It is this: the collection of the amount of these additional duties, that is, the ten per centum sinking-fund and twenty-five per centum supplementary fund from and after October 1, 1872, in Haytien paper money instead of specie at the rate of three hundred gourdes to the specie dollar. It is estimated that these funds will amount annually to one million one hundred thousand dollars, ($1,100,000.) Thus, although the redemption and withdrawal of the paper money may be effected by one and the same operation, yet it will take at least two years to effect its redemption and withdrawal by the application of this amount only of the annual revenue. The executive and the special commission meanwhile will have to exercise a sharp vigilance to see that the paper money thus received shall be destroyed and not surreptitiously carried away, as it is too apt to be by dishonest officials to whom the handling of it may be intrusted, to be brought back and presented a second or even a third time for redemption.

As American silver coin has been made a legal tender by legislative sanction on and after October 1, 1872, in all business transactions, and as it is supposed that there is not a sufficiency of this coinage in the country to supply the demand of ordinary business transactions, and as the ignorant mountain people who raise and sell all the coffee and other exportations produced here are unacquainted with the value of these coins and very suspicious of all changes in the currency of the country, therefore a chaos in business affairs, amounting almost to a financial panic, has been anticipated during the two or three months dating from the commencement of the new order of things. But the speedy demonetization of the paper currency, though proposed and discussed, has wisely been deferred, and the wretched treasury bills, concurrently with the (theoretical) circulation of specie, still enjoy their old place and commercial value. It is probably owing to this state of facts that the fears of difficulty have not thus far been realized.

The silver and copper coins issued by former Haytien administrations are quite out of circulation, and foreign silver coins of a smaller denomination than twenty-five cents are equally rare here. As a step toward a

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preparation to meet the necessity which must arise in case the withdrawal of the paper money be effected, the government has already collected and sent to the United States something like a hundred thousand dollars' worth of Haytian coinage for the purpose of having it converted into coins of small denomination.

The project of supplanting the paper circulating medium by a metallic one seems to have become the pet scheme of this administration. Its ultimate success would undoubtedly prove a great protection to the laboring classes, and, for a time at least, a solid benefit to the country. But the absence of any guarantee for a continuation of the public tranquility, * * if not a scarcity of real practical and executive ability among them, and the coldness with which the scheme is regarded by a large portion of the foreign merchants who control most of the capital of the country, and whose fortunes have been wont to receive large and quick augmentations by the remarkable fluctuation in the values of the paper currency, forbid a perfect confidence in the final and complete attainment of the end in view.

I am, &c.,

EBENEZER D. BASSETT.

No. 203.

Mr. Bassett to Mr. Fish.

[Extract.]

No. 162.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 23, 1872. (Rec'd Dec. 11.)

SIR: It appears that during the latter part of October a small squad of soldiers belonging to the forces of President Baez, suddenly fell upon the camp of General Cabral; on the frontier, killed a distinguished Haytian general, who was also a senator of the republic, named John Lynch, and some few others, and put to flight Cabral himself, who barely escaped, half-dressed, alone, and on foot. Among the wounded was a distinguished partisan of Cabral, a general named Pimentel. He was at once brought here to Port au Prince, where he soon after died and was buried with military honors.

Not a word is said about the affair in the official journal, "Le Moniteur." But another journal, "Le Peuple," has given of the occurrences an account, which I send herewith, (see inclosure A.) The style and epithets of this article are noticeable.

There are two questions which this recital might suggest. It might be interesting to know why a distinguished Haytien general and senator should be found in the camp of General Cabral, and also why a leading insurrectionary general of San Domingo should be buried at Port au Prince with military honors, in presence of the high civil and military officials of this government. Nor can the silence of the official journal as to the facts enumerated pass altogether unnoticed.

It is tolerably well clear to my mind that the events above cited must nearly or quite prove the practical end of the "great" Cabral insurrection in San Domingo. * * * * * *

I have, &c.,

EBENEZER D. BASSETT.

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[Inclosure A.—Translation.]

Thursday morning, October 24, ultimo, sixteen Baezites crossed the lines of Cabral without firing a gun. These brigands secretly entered two cabins. In one of them they found John Lynch, Lorenzo Acosta, Jesus del Christo, and B. Pimentel. This latter person was gravely wounded, while the three first were assassinated. In the second cabin Cabral and eight others were sleeping. Six of these individuals fell under the enemies' balls, while Cabral succeeded once more in saving himself by running away bare-footed.

The sixteen Baezites returned as they came, without a wound, and without sound of trumpet or drum. Such a fact proves the listlessness and incapacity of Cabral's troops. It is also said that Ogando, one of Cabral's generals, has revolted against him. What a simultaneous combination of crimes, misfortune, and shame! These assassinations took place at Descuviertos, at four o'clock in the morning.

General Pimentel, removed here by the care of his friends, had to undergo the amputation of an arm Sunday morning. He died in consequence of the operation, and was buried with military honors yesterday, November 4th instant.

No. 204.

Mr. Bassett to Mr. Fish.

[Extract.]

No. 164.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 28, 1872. (Rec'd Dec. 18.)

SIR: I have the honor to send herewith (see inclosure A) the translation of an editorial in "Le Peuple," which appeared on the morning of the 25th, though dated the 21st instant. I commend it to your perusal.

The article refers to the re-election of President Grant, and predicts as its consequence the early re-opening of the question of the annexation of San Domingo to the United States. I judge it to be a fair reflex of the prevailing sentiment here, in regard to that event. It will be seen that to obviate this annexation it suggests that steps should be taken by the Haytien government to conclude "a treaty of peace, commerce, and alliance with Baez." My impression is that this idea was long ago suggested to this government. * * * * *

I have, &c.,

EBENEZER D. BASSETT.

[Inclosure A.—Translation.]

A deplorable fact will infallibly come to pass in April or May next. This will be the annexation of the Dominican portion of the island to the United States of America. For our part, the re-election of General Grant to the presidential seat is the suspension of a new sword of Damocles over our heads. Our line of conduct from to-day should be the most serious, the most calm, and the most direct.

If we had the management of affairs, we would have taken immediate steps to conclude a treaty of peace, commerce, and alliance with Baez. The graceful manner with which he returned to us our four prisoners is a sufficient proof that he does not wish us any evil.

Moreover, would not a friendly and durable arrangement be more profitable than an enmity at once long, arduous, perilous, and disastrous? Let us calm our passions, let us enter frankly on the stage of action, and let us make use of the few friends that are left to us. There is one who, though somewhat hurt, will serve us with a joyous heart, and lead affairs to a happy conclusion. By not losing any time, we will triumph, and we will prevent, perhaps, annexation. Let us, therefore, be up and doing.

But the other one * * What other one? The other man. Very well! Give him some money, and say to him, frankly, "For the last three years thou hast done nothing but consume piasters. Be off quickly, if you know what is well for yourself."

Things should be done squarely, that's all!

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No. 205.

Mr. Bassett to Mr. Fish.

No. 166.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, December 12, 1872. (Rec'd Dec. 26.)

SIR: In my No. 160, of November 6 ultimo, an epitome is given of the financial measures taken by this government, in its efforts to effect a withdrawal from circulation of its wretched paper money now in use. Since the date of that dispatch strong measures have been taken in this regard, and the government has given evidence that it is determined, even at the risk of its own immediate standing with the masses, to free the republic from the disgraceful currency notes with which it is flooded. The chief difficulty in the way of the proposed reform, as stated in my said No. 160, would, it was thought, be the finding of a sufficient amount of specie with which to replace the present circulating medium, even at the low rate of three hundred paper dollars to one dollar specie, which has been fixed by the government. But I am informed by Mr. Boyer Bazelais, president of the chamber of deputies, and in some sense the author of the project, that the loans negotiated with four merchants here and the amount said to be in the *Caisse de Réserve*, will together place the government in possession of about one million of dollars with which to begin the proposed withdrawal. It should be remarked that the loans from the merchants alluded to were made upon short time, and upon other terms quite favorable to the lenders.

Starting with this basis of one million of dollars, and acting in accordance with the powers conferred upon him by the corps legislatif, the president issued on the 29th ultimo a decree, declaring that, after a delay of four months from the 15th of December instant, the paper currency shall cease entirely to be a legal tender in this republic, and that the bills of the denomination of twenty dollars being extensively counterfeited, are and remain definitely demonetized from the 15th instant, and must from that date cease to circulate as money in the republic. The aim of this decree is to force the holders of the paper money to bring it forward for redemption within the time specified.

It is thought that the twenty-dollar notes, which are under the decree, to be at once withdrawn from circulation, constitute about two-thirds of all the paper money of the republic, and it is still feared that the shock which was anticipated from their sudden withdrawal may result in popular tumults in different parts of the country.

Although in this action of the government it might require only some indiscretion on the part of the government officials or some appeal to popular passions to stir up violent demonstrations among the people, although confusion has already been created in commercial circles, and a check has been put upon ordinary business transactions, and although murmurings and discontent begin to come to us from all parts of the country, my impression is that overt acts of popular violence may be avoided if the government will promptly and fairly redeem its pledges to the people to give them specie for their paper gourdes.

I am, sir,

EBENEZER D. BASSETT.

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No. 206.

Mr. Bassett to Mr. Fish.

No. 174.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, January 30, 1873. (Rec'd Feb. 24.)

SIR: I have the honor to represent that a German squadron entered this harbor on the 19th instant, and that after the customary exchange of salutes between the authorities here and the flag-ship of the squadron, the latter sailed for Kingston and Havana on the 21st instant. The squadron consisted of the iron-clad Friedrich Carl, Commodore Werner; the corvette Vineta, Captain Batsch; the corvette Gazelle, Captain D'Arendt; the corvette Elizabeth, Captain Livonius. A smaller vessel, belonging to the same squadron, called the Albatross, arrived here on the 28th instant, and left the same day to join the others.

The mission of this squadron here was, it is believed, entirely friendly. But a remarkable feature of this visit was the presence in these waters once more of Captain Batsch, still in command of the same corvette, Vineta, with which, in connection with the Gazelle, he seized the Haytien fleet in this harbor in June last. This fact caused some discussion in Haytien circles, and seems to be, for the time being at least, something of the refutation of the pretences alluded to in my No. 171, of the 6th instant, and given out by General Brice, the Haytien envoy, who claimed to have received assurances at Berlin that Captain Batsch's conduct here in June last would be disowned by his government.

I have, &c.,

EBENEZER D. BASSETT.

No. 207.

Mr. Bassett to Mr. Fish.

No. 175.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, January 30, 1873. (Rec'd Feb. 24.)

SIR: The United States war steamer Wyoming, Commander F. H. Baker, cast anchor in this harbor in the evening of the 25th instant. On the following morning Commander Baker and myself called at the national palace to pay our respects to President Saget. The cabinet was in session when we arrived there, but the president and his ministers nevertheless immediately, and with marked cordiality, received us.

Commander Baker had informed me before reaching the palace that some of his officers, who were on shore at a place called Bizoton early that morning for the purpose of taking solar observations, were treated with disrespect by the populace there. We mentioned the circumstance at the palace, and the minister of the interior, expressing regret at the occurrence, at once sent orders to the local authorities at Bizoton commanding them to see that our officers and men be thereafter treated with all proper dignity and respect.

We also mentioned the fact that Commander Baker was charged by the Navy Department to secure, in whatever might be the proper way, the disinterment of the remains of Doctor Willes, who, as a surgeon on the Seminole, died here in January, 1870, and was buried in the cemetery of Port au Prince. We were assured that every facility should be afforded by the authorities to Commander Baker in the fulfillment of this charge, and the assurance proved afterwards entirely correct.

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The Wyoming sailed from this harbor for Key West, via Gonaives, Mole St. Nicholas, and possibly other points, at daybreak this morning.

It is due to Commander Baker that I should say that he produced an unusually favorable impression both upon the authorities here and upon those of my colleagues whom he met.

I have, &c.,

EBENEZER D. BASSETT.

No. 208.

Mr. Bassett to Mr. Fish.

No. 179.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, Feb. 17, 1873. (Rec'd March 10.)

SIR: The corps legislatif, which ended its session on the 25th of August last, was known as the thirteenth "legislature," a technical phrase used here very much as we use the word "congress," to cover the period for which the representatives of the people are elected. The session which closed on the above-named date was the last of the thirteenth legislature. During that session the law providing for the election of deputies was so changed as to allow citizens from the 1st of October until the end of December to enregister, and twenty-five days from the 10th of January for the voting. The manner of conducting the election is so cumbersome that even the twenty-five days are scarcely sufficient for it. It is this:

The electors of each commune assemble in one given locality and organize by electing one of their number as president, another as vice-president, and three or four more as secretaries. This is called the "primary assembly," and the officers thus elected constitute its "bureau." The voting then begins, and is effected in such a way that only one deputy can be chosen at a time. A person, to be elected, must receive an absolute majority of all the votes cast while he is a candidate, and thus it may happen that the voting may proceed for several days without the election of a single deputy; and, besides, if the number of voters marked on the check-list does not exactly correspond with the number of ballots in the "urn," these ballots are at once destroyed, and the voting must commence *de novo*.

The vote for the members of the fourteenth legislature has just been taken throughout the republic. In it there has been an unusual interest manifested, chiefly because, at its second session in 1874, it is to elect a successor to Nissage Saget as President of the republic. The members of the corps legislatif also enjoy an immunity from arrests and all manner of open persecution—a very considerable immunity in a country like this. There was, of course, an unusual number of candidates, each one nominating himself and urging his own election. It was noticeable that several of the candidates, in their efforts to commend themselves to the electors, appealed to the real or supposed feeling against foreigners and against annexation. One of these candidates was charged, in an anonymous poster, with being in my service as a spy.

The government had clandestinely been very active, with the view of securing the election of deputies favorable to its own aims and plans, its candidate for President Saget's successor being General Domingue, who is at present commander of the department of the south, and to

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whom some allusions are made in my No. 35, of January 15, 1870, and again in my private No. 4, of March 22, 1870. Finding, however, that the electors were disposed to exercise their constitutional privilege to vote for whom they might choose, and that the majority did not choose to vote exactly according to its wishes and plans, the government took measures which it is said no other government in Hayti has ever before attempted. On the 15th ultimo, in the midst of the voting here, a military demonstration was made, the alarm-gun was fired, troops were marched to the polls, several persons were arbitrarily arrested and imprisoned, others precipitately fled to seek safety in friends' houses or in the woods or elsewhere, the rest of the voters present were dispersed, and the officers of the primary assembly resigned, all of which was done on the plea that the safety of society was menaced by conspiracies then culminating against the government. It is believed, however, that the special offense given, by what promised to be a majority of the electors, was that they were voting for General Salomon, who is now in Jamaica. This General Salomon was a minister of state under Soulouque, and minister plenipotentiary to Europe under Salnave. He is a black man of remarkable moderation, ability, and culture, whom the party in power here fear very much, but whose great talents and influence many patriotic Haytiens desire to have felt in the direction of their public affairs.

The friends and partisans of General Salomon having been dispersed and silenced, the bureau was, a few days after these occurrences, re-organized. To the apparent surprise of the government, however, the officers of the bureau were not selected, nor the voting conducted, even this time, according to its plans. It thereupon caused to be made a second military demonstration, and sent the commander of the arrondissement to disperse the voters and take possession of the polls. It then proclaimed martial law. This last step, taken under the same plea as were taken the proceedings on the 15th ultimo, effectually ended the balloting, and Port au Prince, since it would not be represented by mere government candidates, will probably not be represented at all, unless the corps legislatif shall take the matter up and order a new election.

It is perhaps worthy of remark, in connection with this recital of facts, that I was privately told by persons in governmental confidence, months before the election, that there would be no representation from the capital; and what I have described as having occurred here has substantially taken place in other communes of the republic. From these proceedings on the part of the government, it would seem as if it might result (1) that there may be either no quorum of the corps legislatif elected, or if there be a quorum, that it may be made up of partisans of the government, and thus, on the one hand, either Saget may endeavor to hold on to his power for another term, or, on the other hand, General Domingue may be declared president; (2) that if, however, the intrigues and menaces of the government have not succeeded, after all, in securing a legislature to its liking, or in preventing an election of a quorum of independent members, it will be called to a severe account for its conduct in regard to the elections and perhaps in regard to other matters; (3) that in either case a determined revolution may occur, because it is claimed that this government, having gained power by overthrowing Salnave upon a certain principle, has now itself most flagrantly violated that very same principle.

The date fixed for opening the first session of the fourteenth legislature is the first or second week of April, and it will soon thereafter be seen what may result from the facts narrated in this dispatch.

I have, &c.,

EBENEZER D. BASSETT.

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No. 209.

Mr. Bassett to Mr. Fish.

No. 182.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, Feb. 17, 1873. (Rec'd March 10.)

SIR: Permit me to record my very great satisfaction at a recommendation made by the President in his last annual message to Congress, as I find it on page 10 of the printed copy of that sterling document. I refer to the recommendation to Congress for an appropriation and authority to use it for the relief of our citizens, other than seamen, who may find themselves in distress abroad. I have often felt, as every one else in our foreign service must have felt, the propriety and wisdom of some such action on the part of Congress as is recommended by His Excellency.

I wish simply to add my testimony on the point, when I state that during my now nearly four years' residence abroad in the foreign service I have been really obliged, from motives of patriotism and humanity, to afford, from my own very limited private means, assistance to our countrymen who have found themselves here comparatively destitute, and for whom no public funds were provided, to the extent of considerable sums of money annually.

Persons who find themselves in these sorrowful circumstances abroad naturally address themselves to the representatives of our Government for some sort of charitable relief. It is not within the heart of patriotism and good will to turn a deaf ear to their appeals, at least I have the humble satisfaction of knowing that I have never refused to listen to and aid them as best I could.

In expressing the sincere hope that the patriotic and considerate recommendation of the President may receive the attention of Congress, I am sure that I do but express the view and wish of every person who now is, or has ever been for any length of time, in our foreign service.

I am, &c.,

EBENEZER D. BASSETT.

No. 210.

Mr. Bassett to Mr. Fish.

No. 188.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, March 11, 1873. (Rec'd March 28.)

SIR: I have the honor to report that another outbreak against the existing government of Hayti occurred on the night of the 3d instant, at Gonaives, under the supposed leadership of one Gallumette, a black man, who, in some sense, represented the smothered but implacable hostility of his class against the present authorities here.

It appears that late in the evening of that day a body of some thirty men suddenly fell upon the military posts of the town, and by a series of well-directed and well-followed-up assaults, had succeeded by midnight in carrying every position of importance, except the arsenal. This they attacked with vigor and persistence, but they were repulsed and held at bay by the government forces, who, during the night, acted solely on the defensive. At day-dawn they took the offensive against the insurgents, and after a two hours' energetic engagement drove them from all their positions and put them to rout.

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In the course of the engagement a few (I do not know how many) fell on both sides, and a few were wounded. Of those of the insurgents who at first escaped, some fled to the woods, some sought other places of concealment, and some were subsequently captured. These last have, as far as I have yet ascertained, all been summarily executed. The number thus dealt with is not far from twenty. Our consular agent at Gonaives writes under date of March 4, instant, "in the course of the day seven persons were executed, without any trial whatsoever, and a further lot of executions on the same arbitrary principle is to take place to-morrow."

When news of the uprising reached the neighboring town of St. Marc it occasioned there the greatest excitement and alarm. Troops were hastily collected and put under marching orders. The citizens were summoned to arms, and at last dates great confusion and turmoil prevailed there still.

Intelligence of the affair reached Port au Prince on the 5th instant, and caused very marked excitement and commotion. The war-steamer Mont Organisé (formerly the Florida) was hastily dispatched to the north with soldiers and munitions of war. A little coasting-steamer, La Rouillonne, was hurried off with a government deputation of inquiry. A cabinet meeting was improvised, and President Saget issued two proclamations, (which are herewith inclosed,) one declaring Gonaives in a state of siege (*i. e.* under martial law) and the other summarizing the occurrences from a government stand-point, and making a brief appeal to the Haytien people. It is noticeable that in this proclamation, as in the one issued on the occasion of the Cinna Leconte outbreak at Cape Haytien, in March of last year, (see my No. 120, of March 25, 1872,) the President gives emphasis to the statement that the insurgents rallied under the cry of "Vive Salomon." It is not believed here that the name of General Salomon was used either on the one or the other occasion in the manner indicated. The friends of General Salomon (see my Nos. 178 and 179, of the 17th ultimo) here all assure that he is utterly incapable of seeking power by means of this kind of insurrection.

I expected to receive on the 10th instant fuller particulars of the affair at Gonaives from our consular officers there and at St. Marc, but the inland post from the north has been kept back up to this hour of writing. I think it safe to conclude, however, that this second bold attempt at the overthrow of Saget's government has been successfully met and put down. And I cannot do better than to quote in this connection a remark from my No. 120, of March 25, 1872, in these words: "But neither President Saget nor his most sanguine friends really feel, I judge, that in view of the wide-spread dissatisfaction and discontent, there is now perfect security against similar movements in the not very distant future."

I have, &c.,

EBENEZER D. BASSETT.

No. 211.

Mr. Fish to Mr. Bassett.

No. 137.] DEPARTMENT OF STATE,
Washington, March 26, 1873.

SIR: Your dispatch No. 181, of the 17th ultimo, inclosing a copy of correspondence, marked "Non-official," between yourself and the sec-

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retary of state of Hayti in relation to the arrest on your premises of persons engaged in your domestic service, has been received.

The statement made in your personal note to Mr. Ethéart, respecting the inviolability of the domicile of a diplomatic agent, was substantially correct; but the immunities of an embassador are not of a personal character. They belong to the government of which he is the representative. It is to be regretted, therefore, that you treated the invasion of your house and the arrest therein of your servants as a personal offense, to be atoned for by the simple release of the persons arrested, and a private note expressive of regret.

This act, especially when regarded in connection with a recent invasion of the commercial agency at St. Marc, and other acts of disrespect, and of neglect of diplomatic and international courtesies, significant of an intent which should have elicited from you a more emphatic protest than your unofficial communication to the Secretary of State, and a demand for more decided redress than that which you were content to accept.

I am, &c.,

HAMILTON FISH.

No. 212.

Mr. Bassett to Mr. Fish.

No. 196.] LEGATION OF THE UNITED STATES,

Port au Prince, Hayti, March 26, 1873. (Rec'd April 16.)

SIR: On the night of the 23d ultimo, three Dominicans took refuge in the British vice-consul's residence at Puerto Plata, San Domingo. On the following morning the Dominican authorities made a demand that these refugees be delivered over to them. This demand was refused. In the afternoon of that day the demand was repeated, and again refused. Thereupon the Dominican authorities, among whom was the Dominican minister, Ricardo Curiel, against the protest of the British vice-consul, forcibly entered his house, and wrested therefrom the refugees, who were taken to San Domingo City, where they are supposed now to be incarcerated.

Inclosure A is a copy of the statement of the occurrences which was sent to my colleague, the British minister resident here, by his vice-consul at Puerto Plata. Inclosure B is a dispatch sent by the governor of the district of Puerto Plata to the governor of Turk's Island, in which an explanation of the circumstances, from a Dominican stand-point, is made. It may be inferred from this explanation that a view taken by the Dominican authorities of the proceedings is, that they were in accord with the law of that republic, and that there was in them no violation of the British vice-consulate, but only a forcible entry, made in proper form, upon the premises of the private residence of a person domiciled in Puerto Plata, who happened to be the British vice-consul.

As soon as these communications had reached my colleague, who is also Her Britannic Majesty's chargé d'affaires to the Dominican Republic, he sent a statement of the occurrences to his government, asking for definite instructions by which he might be guided in regulating the somewhat delicate question which has been raised. At the same time he wrote to his vice-consul at Puerto Plata a dispatch, which he requested to be read to the Dominican authorities. In this dispatch he

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seems to consider the proceedings complained of as an outrage on the rights guaranteed to Her Britannic Majesty's vice-consuls in San Domingo, and demands of that government full satisfaction for the alleged offense. His demands, as I have gathered them from what he has himself said to me, are that the refugees taken from the vice-consular residence shall be immediately returned, or at least released temporarily from custody; that the Dominican authorities who violated the consular residence shall be made sensible of the displeasure of their government, and that a national salute be given by that government to the British flag.

In his dispatches relating to the affair my colleague has laid down the doctrine that wherever the flag of a consular officer of Her Britannic Majesty floats, there is his consulate.

The British admiral commanding Her Britannic Majesty's West India squadron, whose principal station in these waters is at Kingston, Jamaica, having learned of the occurrences, placed at the disposition of my colleague Her Britannic Majesty's war-steamer Niobe, commanded by Sir Lambton F. Lorraine, which arrived here on the 13th instant, and after ample conference had with my colleague, sailed for Puerto Plata and San Domingo City on the 16th instant. I learned while dining with Sir Lambton and my colleague that the mission of the former to San Domingo is to inquire into the facts of the alleged outrage on the British flag, and to gather the disposition of the Dominican government to accede to the terms of settlement already stated.

I availed myself of the opportunity to write by the Niobe to our consular officers at Puerto Plata and San Domingo City personal letters, asking for full information of all that may have transpired in regard to the event under consideration up to the Niobe's sailing for Port au Prince.

I do not think it likely that there will be any receding from the demands which my colleague has preferred on the government of San Domingo. And if, as he has said to me, that government has already taken the lives of the persons wrested from the consular dwelling at Puerto Plata, or shall take them before the affair be regulated, there will then arise a circumstance somewhat similar to that which caused the bombardment of Cape Haytien in 1865. I trust that there may be no further violence growing out of the affair, as in that case serious embarrassments must arise, at least for the Dominican government, and I think, in any issue which it may have, the right of asylum to political refugees in the British vice-consulates in San Domingo, which has hitherto existed, will be withdrawn.

On the return of the Niobe I shall probably be put in possession of further advices concerning the issues which may grow out of the affair referred to, and I will then promptly convey to the Department any features of importance which these advices may contain or suggest.

I have, &c.,

EBENEZER D. BASSETT.

A.

Mr. Hamburger to Mr. St. John.

BRITISH VICE-CONSULATE,
Puerto Plata, February 25, 1873.

SIR: I have the honor to bring to your notice the following occurrence:
On the evening of the 23d instant there came to my dwelling-house General Juan

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Nuezi, former governor of this city, and his sons Martin and Claudio Nuezi, and stated that they had been at the head of an armed demonstration to protest against the government of this republic for leasing or ceding the bay and peninsula of Samana or any other part of the territory; that the government had considered them as rebels, and fearing that their lives were in danger, they put themselves under the protection of the British flag. I took said persons under my protection, and early on the 24th I informed the governor thereof. I received no answer to my communication; but later there came a magistrate and other officials, and, by order of the governor, demanded the immediate surrender of the said Juan Nuezi and his two sons.

I replied that said persons were under my protection, that I would not deliver them against their will, and that I requested them to respect my house, which I declared was the British vice-consulate, and over which the British flag floated. Their demand to give up the refugees was repeated, and threatened me to take them out by force of arms, and if need be break open the house. I again refused to give up the men, and told them that their threat and the execution of it I would consider as an insult to the British flag and make them responsible for the consequences. At 3 o'clock in the afternoon there came a force of police and soldiers, and on my refusing to give up the refugees, they pulled down the door, filled the house with armed men, and took out and carried to prison the said General Nuezi and his sons Martin and Claudio Nuezi.

I called all the foreign consuls resident in this city, informed them of what had occurred, and they agreed that I could not have acted otherwise.

It is important to mention that Mr. Ricardo Curiel, minister of war, finances, &c., &c., and on commission from the executive to represent it in these provinces, did personally order and direct the act already mentioned, and who, on seeing that the soldiers were reluctant to enter my house, actually pushed them in with his own hands.

After having received such insult I took down the flag, and will not raise it again until this question is settled.

I have chartered a schooner to bring this communication to Cape Haytien, and request Her Majesty's consul there to forward it to you by express.

Awaiting your arrival, or such steps as you may deem advisable,

I have the honor to be, sir, your most obedient servant,

JOSÉ R. HAMBURGER.

SPENCER ST. JOHN, Esq.,
Her Britannic Majesty's Chargé d'Affaires, Port au Prince.

B.

Mr. Gonzales to governor of Turk's Island.

PUERTO PLATA, *February* 25, 1873.

DEAR SIR: As an additional proof of esteem for you, I hurry to explain certain facts which, reaching you wrongly represented, might cause surprise.

As governor of the district I received early yesterday morning the following dispatch from the British vice-consul at this, viz:

"I have the honor to inform you that General Juan Nuezi, former governor of this city, and his sons Martin and Claudio, are now at my house, they having claimed the protection of the British flag.

"J. HAMBURGER."

I beg to call your attention to the circumstance that General Nuezi and his sons are fugitive political offenders for the last month, and that one of those sons, Claudio, is even implicated in a criminal plot, which the court is investigating just now.

By one of my aids I ascertained that nobody was at the consulate, which is located in Mr. Hamburger's business place, but that the said refugees stopped at Mr. H.'s *private residence.*

I called, through the alcalde of this city, Mr. Hamburger's attention to the difference which exists between Mr. H.'s dwelling and the British vice-consulate, which is rendered conspicuous to the public and inviolable to the authorities by its being the depository of the archives, and its display of an escutcheon bearing the arms of Great Britain.

On this basis, which Mr. H. would not admit of, I ordered the judicial proceedings prescribed by our laws. These once gone through, Mr. H., who, foreseeing the extraction of the Nuezi family, closed his house hermetically, defying the purpose of the law thereby, was thrice summoned in the name of the law to open and give over to the alcalde. On his refusing to comply with this legal demand the one door was opened, and General Nuezi and his two sons taken into custody.

These are the plain facts of what has transpired. No infraction of international law,

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no violation of consular prerogatives, no offense either intended or offered to the British flag, but simply fugitive offenders extracted with all the formalities of the laws from under the roof of a private individual in order to insure public safety.

According to law, copy of the entire proceedings was left with Mr. Hamburger.

I regret that too much zeal has induced Mr. H. to misunderstand a question so plain and simple.

I remain, sir, &c.,

IGNACIO M. GONZALES.

The GOVERNOR OF TURK'S ISLAND.

No. 213.

Mr. Bassett to Mr. Fish.

No. 199.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, April 7, 1873. (Rec'd April 16.)

SIR: In my dispatches numbered 196 and 197, and dated the 26th ultimo, reference is made to an alleged violation of the British vice-consulate at Puerto Plata by the authorities of San Domingo. Since the date of those dispatches, Mr. Henry O'Connor, who has been sent out to San Domingo and Hayti by the New York Herald, and who has been spending a few days at my house here, has informed me that he learned before quitting San Domingo, some three weeks ago, that the government of that republic had promptly and fully acceded to the demands made upon it by my colleague, Her Britannic Majesty's minister resident, in consequence of the occurrences at Puerto Plata, which are narrated in my No. 196. Mr. O'Connor says that reports of the settlement of the affair upon the basis just stated were current at Puerto Plata and at Monte Christo when he passed through those places some three weeks ago.

My colleague assures me that he has received no information as to any settlement of the affair, other than the statement of Mr. O'Connor. He presumes, however, that this statement is correct, and that Sir Lambton Lorraine, who is in command of Her Britannic Majesty's war-steamer Niobe, has sailed for Jamaica or other English territory with the Dominican refugees, who were taken from the British vice-consular residence at Puerto Plata instead of returning to Port au Prince. We may expect, therefore, to receive by next packet from Jamaica full particulars of the result of Sir Lambton Lorraine's visit to Puerto Plata and San Domingo City.

I have, &c.,

EBENEZER D. BASSETT.

No. 214.

Mr. Bassett to Mr. Fish.

No. 206.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, April 16, 1873. (Rec'd April 30)

SIR: Asking reference to my dispatches numbered 196 and 197, of the 26th ultimo, and to the one numbered 199, of the 7th instant, all referring to the alleged violation of the British vice-consulate at Puerto

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Plata by the authorities of San Domingo, I have the honor to state that Her Britannic Majesty's war-steamer Niobe, commanded by Sir Lambton Lorraine, which left this harbor for Puerto Plata and San Domingo City on the 16th ultimo, as reported in my No. 196, returned here on the 14th instant, and brought with her official information of the complete settlement of all difficulties growing out of the occurrences at Puerto Plata.

Her Britannic Majesty's representatives claimed that the proceedings of the Dominican authorities at Puerto Plata in taking three refugees from the British vice-consular dwelling there by force constituted a deliberate insult to the British flag. The reparation demanded in positive terms through Sir Lambton Lorraine, acting on instructions from my colleague, Mr. St. John, were (1) that the persons taken by force from the British vice-consular dwelling, which was considered the British vice-consulate, should be delivered up; (2) that the officers of the government of San Domingo who aided in the proceedings complained of should be made sensible of the displeasure of their government for their part in these proceedings; (3) that the British flag should be hoisted over the British vice-consulate at Puerto Plata by an officer not below the grade of captain in the service of the government of San Domingo in presence of all the chief officials of Puerto Plata, and saluted in that presence by twenty-one guns, or by three discharges of musketry.

The government officials at San Domingo City endeavored, under one statement after another, to evade or delay a direct response to the demands made. They claimed that the place from which the refugees were taken was not the British vice-consulate, and then that the affair had been referred diplomatically to Her Majesty's government at London. But Sir Lambton Lorraine, under instructions from my colleague, Mr. St. John, repeated his demands in more decided and peremptory terms, and thereupon the Dominican government stated that, yielding to the presence of superior force, it would accede to those demands. On the 7th instant the refugees were delivered up and placed on board the Niobe, and the dispatch censuring the Dominican officials at Puerto Plata was forwarded by President Baez's cabinet, and on the 8th instant the British flag was, in the manner insisted upon, hoisted over the British vice-consulate at Puerto Plata, and saluted by the firing of twenty-one guns.

It is worthy of remark that, in the correspondence on the subject between Sir Lambton Lorraine and the authorities of San Domingo, which is somewhat voluminous, and of a portion of which I have had a very hasty reading, both parties recognize in one way or another the right of asylum to political refugees in the consular offices of Her Britannic Majesty in San Domingo.

I have, &c.,

EBENEZER D. BASSETT.

P. S.—While dining on board the Niobe this afternoon with several of my colleagues, I learned that the three Dominican refugees, who were taken from the premises of the British vice-consul at Puerto Plata, were then on board the Niobe, and purpose landing here. My colleague, Mr. St. John, while we were on board, handed Sir Lambton a dispatch formally congratulating the latter on the energetic and faithful manner in which he had carried out his instructions. He also at table verbally emphasized those congratulations in quite an outspoken manner.

E. D. B.

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No. 215.

Mr. Bassett to Mr. Fish.

No. 210.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 6, 1873. (Received May 16.)

SIR: Referring to my dispatch No. 188, of March 11, which outlined the occurrences at Gonaives on the 3d of that month, I have the honor to state that subsequent developments have substantially confirmed all the recitals made therein.

There are, however, two or three facts connected with the outbreak alluded to which ought, perhaps, to be placed upon record. And first let me refer to the frightful executions which the government officials at Gonaives visited almost indiscriminately upon every one to whom the slightest suspicion of complicity or sympathy with the insurgents could be traced. Men were taken from their homes and led off to execution without ceremony and without warning. No form of trial was had in any case, as far as I have learned or believe. The commander of the department, General Benjamin, sent word to the government at Port au Prince saying, it is currently reported that he would give no account of his proceedings in regard to the insurgents and their sympathizers until after a certain number of days, the idea being that he intended to wreak vengeance on them before he would receive any instructions or directions from his superior officers here, and his conduct has been applauded by the government authorities. The official list of those executed contains thirty-four names. But I am reliably informed that about twice that number have actually been summarily put to death, pursuant to the orders of General Benjamin. In some cases, I am assured, the bodies of those who had fallen were allowed to lie unburied in the scorching sun, and to be devoured by ravenous animals. It is even said that in at least one well-marked case these animals began their sickening work before the life of their human victim was extinct.

Our consular agent at Gonaives, Mr. Heberlein, in his last dispatch to me on the subject, remarks: "From the terror inspired by these events, with their wholesale and indiscriminate executions, the conviction that this country is only capable of self-government under the guidance of a large, well-governed, and just community, is gaining ground more and more, especially among that class of Haytien citizens who have social or pecuniary interests at stake."

It is, of course, to be expected in any country that when men combine to overthrow, by force, the existing authorities, they should be made to feel in some way the power of those authorities. But in this country the results that have attended the system of summary executions for this class of offenses, which has been acted upon since the foundation of Haytien independence, ought certainly now, after more than sixty-nine years of trial, to teach the authorities that such a revolting system is no remedy for existing evils and no guarantee for the peace and tranquillity of the state. And besides, there is scarcely room for a doubt that it has seriously affected the growth of the population and the sanctity of the family relation.

At first none of those resting under suspicion of complicity with the outbreak sought refuge in the foreign consulates, but later a few came into our consular office at Gonaives. But the authorities made no demand for them, and showed no disrespect to our consular agent, to his office, or to his dwelling. I wrote him, under date of March 15, as follows: "You will be expected, in all cases, to use judiciously your good

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offices and the moral influence of your official position in behalf of humanity, but in every circumstance to exercise a wise discretion, and to seek to avoid all difficulties and misunderstandings with the authorities of this government within your district. The (so-called) right of asylum for political refugees in foreign consulates is not recognized by public law or by the Government of the United States." I am happy to be able to state that Mr. Heberlein has well acted upon this instruction in the case of those who sought in his office shelter from merciless pursuers.

In my No. 188 I alluded to the mention, made by the President in his proclamation, of the name of General Salomon. It seems that General Salomon felt at last that justice to himself and his friends demanded of him some notice of these repeated attempts on the part of the authorities of this government to connect his name with abortive insurrectionary movements against them. Accordingly he caused to be published a well-written circular, which has, much to the discomfiture and chagrin of the government, found its way here in considerable numbers. I inclose herewith a copy of it.

I am, &c.,

EBENEZER D. BASSETT.

No. 216.

Mr. Bassett to Mr. Fish.

No. 212.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 6, 1873. (Received May 21.)

SIR: In my No. 179, of the 17th of February last, in speaking of the elections then recently held in Hayti for members of the corps législatif, I had the honor to give some intimations of the purposes entertained by this government in regard to those elections, as well as of the animus with which it had conducted itself toward them, and at the end of that dispatch I took occasion to state some reasons for apprehension that difficulties and embarrassments might result from the proceedings which had been observed during the progress of the voting.

It becomes my duty to record in this dispatch a partial fulfillment of some of those apprehensions, and to state that, to all appearances, Hayti finds itself again upon the high road to open irregularities of government, and perhaps upon the eve of civil commotion.

The constitution in its seventy-fifth article fixes the first Monday in April as the date for the opening of each annual session of the corps législatif, and in its eighty-fourth article directs that two-thirds of the members of each house shall constitute a quorum of each. The number of members of the chamber of deputies is seventy-four. Therefore the presence of fifty members was considered necessary for the opening of that body. The members to this number were not present until the 21st of April, two weeks after the date fixed by the constitution for their organization. On that day a provisional organization was effected for the examination and verification of the members' credentials. All went on sufficiently smoothly until the credentials of Mr. Boyer Bazelais were offered, and then a lively discussion arose in which considerable bitterness and partisan spirit were apparent. Mr. Bazelais was the only one who presented credentials for Port au Prince. It was well known that he is opposed to General Domingue's pretensions as to the presidency, and that he would likely exert an effective influence against those pretensions in the National

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Assembly, which should be composed of the members of the present corps législatif and which should next year elect a successor to President Saget. Finally, when the question was put to the assembly, it was decided by a vote of thirty-four to eighteen that Mr. Bazelais should be admitted. Thereupon the eighteen, headed by Mr. Septimus Rameau, brother of the minister of justice, or kinsman, and violent partisan of Domingue, entered a protest against Bazelais's admission, and withdrew from the chamber, reserving to themselves, however, their rights as deputies of the people.

As, owing to the circumstances attending the election, which are outlined in my No. 179, only sixty-five out of the seventy-four members of the chamber were returned, the withdrawal of these eighteen left that body without what had always been considered a quorum. Immediately thereafter discussions, generally heated, but now and then temperate and reasonable, crimination and recrimination, and all the intrigues known to the political arena, were put into requisition with the view of securing a decisive victory to the one or the other of the embittered factions in the chamber of deputies. Self-constituted committees called upon the Executive, but for once that department of the government maintained a remarkable reserve. Naturally, much inquietude and alarm prevailed during this unsettled condition of affairs. But at last, on the 2d instant, at the suggestion of the senators, the house went into session and organized with forty-five members, a step which was claimed to be constitutional on the ground that there were present two-thirds of all the sixty-five members actually elected, although it has always maintained that two-thirds of its members was to be interpreted as meaning two-thirds of the whole house of seventy-four. General Brice, late minister plenipotentiary to Europe, was elected president, and the customary message was sent to the Executive giving notification that the house was organized and ready to proceed to business. The President promptly returned an answer to this message of the house on the 3d instant. This answer is signed by all the ministers of state, and is addressed, not to the chamber of deputies, but to the "citizens chosen as representatives, who met yesterday in the hall affected to the national representation," and says, in effect, that as the senate could not organize because of lacking one member of the constitutional quorum, so the house must await its constitutional majority of two-thirds before it can be recognized by the Executive. I inclose a copy of this document, marked A.

Meanwhile the minority of eighteen had gained accessions to their ranks. It is freely reported that money has been liberally used, both to keep firm those who at first seceded and to increase their numbers, all in the interest of the Domingue faction. They drew up and signed a protest against the action of the majority, asserted their determination to persist in the course they had chosen, declared the impossibility of having a legally-constituted corps législatif this year, and practically prayed the Executive to assume dictatorial powers until next year, when elections can be legally held in the communes which failed this year to send forward members with credentials that could not be questioned.

Such are the leading facts and occurrences bearing upon the present critical situation of affairs here up to this date. But it is very clear that the end is not yet. I predicted in my No. 179 that there might be no quorum of the corps législatif elected this year, and this prediction seems about to be substantially verified. For when it was ascertained that a sufficient number of members to form a quorum had been elected, and that all the menaces and intrigues said to have been re-

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sorted to by the Executive and its candidate for its own successor, Domingue, had failed to terrify or cajole into voting, according to its plans and purposes, even the majority of electors who had the hardihood to be present at the polls at all, other measures to attain the end apparently sought by the Executive and its partisans seem to have been at once concocted and put into operation by them. The outward results of these measures up to the present writing I have endeavored to trace in this dispatch.

It would seem now as if the plan to put into the hands of the Executive the means of either holding on to power for another term or of installing its own chosen successor may be realized. President Saget's term expires in May of next year. His successor should, according to the constitution, be elected by an aggregate vote of two-thirds of the two houses together in national assembly. But the senators are elected by the house on nominations from the several arrondissements. The terms of a sufficient number of senators to leave the senate without a quorum expire with the session of the corps législatif which should have been held this year. It is probable, therefore, that, at best, when the time comes for the meeting of the legislative body next April there will be no quorum of the senate, and that there may be none in time for that body to take its constitutional part in the election of President Saget's successor in the following month of May. And, besides, what is presumed to have been accomplished by Executive connivance, intrigue, and menace as to the house in 1873, may be accomplished in regard to that body by the same means in 1874. In a word, it would now seem that nothing short of an armed revolution can avert a practical dictatorship for Hayti. If this dictatorship should come it is, perhaps, not yet quite time to state with precision who will be at its head. For it has occurred to me that the present Executive, while seeming at least to be serving the interests and pretensions of Domingue, may in the end, when it is too late to retrace its steps, find itself frustrated and outgeneraled by that crafty, determined, cold-blooded aspirant.

I am, &c.,

EBENEZER D. BASSETT.

A.

[Translation.]

PORT AU PRINCE, *May* 3, 1873.
(70th year of independence.)

The council of the secretaries of state to the citizens chosen as representatives who met yesterday in the hall affected to the national representation.

GENTLEMEN: As the senate for want of one member to make up its constitutional majority of twenty, that is to say, two-thirds of the thirty members composing this grand body, could not organize last week, so the chamber of representatives should await the majority of its members, demanded by the combined requirements of the 34th and 51st articles of the constitution, before organizing or taking any action capable of receiving the sanction of the executive power.

It is the duty of us all to respect the fundamental law, and it is to conjure to this end that we send to you the expression of our very high consideration.

NISSAGE SAGET.
S. LIAUTAUD,
Secretary of War, &c., &c., &c.
DAMIEN,
Secretary of Interior, &c., &c., &c.
L. ETHEART,
Secretary of Finance, &c., &c., &c.
O. RAMEAU,
Secretary of Justice, &c., &c., &c.

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No. 217.

Mr. Bassett to Mr. Fish.

No. 214.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 19, 1873. (Received May 29.)

SIR: Referring to my dispatch No. 212, and dated the 6th instant, I have the honor to report that on that day the four secretaries of state were called before the senate, to be there interrogated as to the views and purposes of the Executive relative to the then existing condition of affairs, and that soon after this interrogation the minister of the interior and the minister of foreign affairs tendered their resignations, which were promptly accepted by the President. The late minister of foreign affairs told me that he had retired because he found himself without support to his views in the council of ministers, and it is freely said on all hands here that the former had given his demission because he could not face the storm of popular indignation created against him in consequence of the fire reported in my No. 211, of the 6th instant, and because he lacked the fortitude to breast the crisis which many supposed then to be upon the country. There is scarcely room for doubt, however, that both these gentlemen were influenced in their retirement by the critical circumstances and responsibilities which seemed then likely to come upon the chief functionaries of the government.

Two distinguished citizens of Hayti, Mr. Thomas Madion and Gen. Joseph Lamothe, were thereupon consulted by the President as to their views upon the situation of public affairs, and each in turn was offered a position in the cabinet. Mr. Madion, of whom mention is made in my No. 83, of May 27, 1871, and again in my No. 180, of February 17, 1873, was tendered the appointment to be minister of finance and foreign affairs, as the same was tendered to him in May, 1871. But he declined to accept the tendered appointment, and the minister of justice, Mr. Rameau, was temporarily charged with the duties of those departments. It is now well supposed that the President has decided to call to the bureau of finance and foreign affairs Mr. Charles Haentjens, father of the secretary of the Haytien legation in the United States. Mr. Haentjens is now supposed to be in the United States, on a visit to his son there. Immediately after it was understood that the President desired Mr. Haentjens to take a seat in the cabinet, his eldest son, a member of the city council here, took passage for Kingston, to telegraph to him the President's wishes upon this point. Should Mr. Haentjens still be in the United States it is probable that he will avail himself of an early opportunity to return home and assume the duties said to be assigned to him by the President.

The charge of the interior department was offered to General Lamothe, to whom reference is made in my No. 170, of January 6, 1873. After some hesitancy he accepted the appointment. He is a man of experience and intelligence, and will, I trust, prove a material addition to President Saget's cabinet.

It is worthy of remark that Mr. Madion and Mr. Haentjens were both called to the cabinet here in 1871, and were both compelled to retire on account of charges and assertions made against them at that time by the chamber of deputies, the former being declared under accusation as a minister of President Geffrard, and the other as having once gone into bankruptcy. There can be no question as to the high intelligence and wide experience of both these gentlemen, but the fact that the President has now, in the full presence of the members-elect of the corps législatif,

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ventured again to call them into his councils, is significant, and seems to show that he must now feel more independent of that body than he did in May, 1871.

I have, &c.,

EBENEZER D. BASSETT.

P. S.—I have just received official notification that Mr. Rameau has retired from the temporary charge of the bureau of foreign affairs, and that the minister of interior, General Lamothe, has assumed that temporary charge.

E. D. B.

No. 218.

Mr. Bassett to Mr. Fish.

No. 215.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 19, 1873. (Received May 29.)

SIR: Referring to my No. 212, of the 6th instant, I have the honor to represent that since the date of that dispatch there have been taken some few additional steps in the political drama which is now being enacted here in Hayti.

In my 214, of even date, the changes which have occurred in the ministry of President Saget are recorded. On the 8th instant a meeting of the chamber of deputies was called. General Brice, the gentleman claimed to be president of that body, issued a pathetic appeal (see inclosure A) to his colleagues urging them to present themselves in the chamber that day. But in spite of all the exertions of the majority, only thirty-six members, or one less than half of the seventy-four members that compose the chambers, were present. These thirty-six members drew up and signed a remonstrance against the course pursued by the Domingue faction. In this remonstrance they animadvert upon the course pursued by the Executive in regard to the elections in January and February last. They say upon this point: "The Executive, in demanding the majority of two-thirds should be taken from the seventy-four deputies that should have been elected, has not chosen to note that the proclamation of the state of siege, and the intervention of the military authorities in certain localities, have been the principal causes of the non-election of (the full number of) deputies; that it (the Executive) has no right to profit by the irregularities committed by its own agents, and that it (the Executive) has done nothing up to the present time to remove those difficulties." The manifesto then calls upon the Executive to order new elections to fill the vacancies which exist, and denounces before the nation the course taken by the minority, calling each one of that minority by name. It alludes also to "intrigues, open and secret," in a caustic connection.

On the following day the President issued two proclamations. In one of these proclamations, (see inclosure B,) the President expresses in a peculiar tone regret at the dissidence which had arisen in the legislative body. He speaks of his counsels for reconciliation to both factions in that body, and says, touching upon the proceedings of the chamber, that it was not for him to range himself on one side or the other. He says, also, that it would not become him to infringe upon the rights of

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the people now, when he is at the end of his presidential term, and promises tranquillity and regularity of administration.

In the other proclamation, (inclosure C,) the President convokes the corps législatif in extraordinary session for the first Monday in July next, and this last proclamation has been followed up by another from the minister of the interior, ordering new elections to be held between the 20th instant and the 10th proximo, in the communes which failed to return their full complement of deputies.

I scarcely think any well-informed person here believes that there will be any material bridging over of the dissidence which has arisen in the corps législatif, and consequently that there will be a meeting of that body in July. The Executive having outwardly manifested a conciliatory spirit as to the difficulties and disagreements already shown, will, in case there be no meeting of the legislature according to the President's proclamation, probably assume, or at least will have little apparent excuse for not assuming, full responsibilities in the matter of carrying forward all the duties devolving upon the government after July next.

I have, &c.,

EBENEZER D. BASSETT.

A.

CHAMBRE DES REPRESENTANTS.

Mr. Brice sent the following letter to the deputies present at the capital:

PORT AU PRINCE, *May* 8, 1873.

The president of the chamber of representatives to his honorable colleagues:

DEAR COLLEAGUES: The opening of the national assembly is about to take place this morning at 9 o'clock precisely. If we fail to have a majority we shall naturally be obliged to return to our homes, and then what will become of the country? Who will vote the laws? Who will authorize the budgets? Who will regulate the imposts of the people? In a word, who will aid President Nissage to terminate the noble career that he has fulfilled up to the present time?

The failure to have a majority this morning is the dictatorship! . . . . Dear colleagues, it will be those who fail to be present that will bring it about. It will be they alone who will assume in future its responsibility. Reflect well upon all the consequences of your refusal to meet. Reflect well upon the duties and responsibilities of your mandate as deputies of the people. See on which side public opinion leans, and enter not into your respective localities with the conscience charged with the heavy responsibility of having failed to be present at the meeting of the legislative body of your country.

Dear colleagues, I make a last appeal to your patriotism, to your hearts as honest men, to come to the hall of representatives to inaugurate with the senate the opening of the fourteenth legislature of our glorious but too unhappy Hayti.

I salute you, fraternally,

BRICE.

B.

[Translation.]

PROCLAMATION.

NISSAGE SAGET, *President of Hayti*

HAYTIENS: Seeing the time arrive fixed for the meeting of the legislative body, the government awaited with anxiety its organization to submit to it the *exposé* of the situation and to obtain its co-operation in the acts necessary for the administration of the country.

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But how great has been its deception in seeing break out among the citizens called to compose this grand body, from the commencement of their conference for the verification of their powers, one of the most stubborn misunderstandings.

This misunderstanding has degenerated into a regrettable conflict which has divided them into two opposing parties, thus destroying the majority which ought to have been formed out of their number.

Almost the entire month of April thus passed away in barren discussions, and in spite of my counsels for reconciliation, given to both sides, the matter has become each day graver and graver.

One portion of the chamber, composed of forty-four of its members, met in the usual place of its sittings, and notified me "that they were about passing in open session to the continuation of their labors which had for object the accomplishment of all the acts necessary for the installation of the fourteenth legislature." This notification was very soon followed by an act of organization in spite of their unconstitutional minority.

It was not for me, in view of the express terms of the constitution, and above all in the face of the protestation of both parties, to range myself either on the one side or on the other.

Finally, an attempt has been made having for object the opening of the national assembly; it has not been able to succeed.

Haytiens, all the acts relating to this regrettable circumstance will be placed before your eyes; examine them, weigh them; you will see that my conduct has been always the same, invariable.

It is not on the eve of the end of my presidential term that it would become me to infringe your rights; but I have the task of preserving the public peace, the security of families; I will not fail to do so.

While awaiting the return of your representatives to accomplish their part of the public duties, the greatest regularity will continue to be maintained in the public service. Long live the republic free and independent!

Long live the constitution.

Done at the national palace, Port au Prince, May 9, 1873, and the seventieth year of the independence.

NISSAGE SAGET.

By the President:

S. LIAUTAUD,
Secretary of War, &c.
O. RAMEAU,
Secretary of Justice, &c.
JH. LAMOTHE,
Secretary of Interior, &c.

C.

[Translation]

DECREE.

NISSAGE SAGET, *President of Hayti.*

Whereas there is a necessity of convoking the legislative body, see the 76th article of the constitution;

And on the advice of the council of the secretaries of states who have recognized its urgency;

Decrees as follows:

ART. 1. The legislative body is convoked in extraordinary session for the first Monday of next July.

ART. 2. The present decree shall be executed under the diligence of the secretary of state of the interior.

Done at the national palace May 9, 1873, and the seventieth year of the independence.

NISSAGE SAGET.

By the President:

S. LIAUTAUD,
Secretary of War, &c.
O. RAMEAU,
Secretary of Justice, &c.
JH. LAMOTHE,
Secretary of Interior, &c.

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No. 219.

Mr. Bassett to Mr. Fish.

No. 221.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 10, 1873. (Received June 23.)

SIR: In my 210, of the 6th ultimo, reference is made to persons who had, some days after the insurrectionary outbreak at Gonaives, which is narrated in my No. 188, of the 11th of March last, sought refuge in our consular office at that point.

It seems that, after these refugees had safely escaped for the time the terrible persecutions visited by the Haytien authorities upon every one whom malice or supposition could bring within suspicion of complicity or sympathy with that insurrectionary movement, they very indiscreetly addressed a letter to President Saget, begging his intervention in their behalf to shield them from the fearful fate which would certainly be theirs if by any chance they should fall into the hands of General Benjamin.

This letter was of course intercepted, and only served to increase the indignation and vigilance of the implacable General Benjamin, who commands the district of Gonaives, and he forthwith stationed a guard around our consular residence there. Such a proceeding was liable to produce at any moment unpleasant results. And our consular agent, Mr. Heberlein, prudently came to Port au Prince to consult me about the matter. I at once called upon the Haytien minister and represented the case to him from our standpoint, particularly urging that the guard be immediately withdrawn from the near vicinity of our consular office at Gonaives, and that authority be given to at once embark the refugees. He promptly accepted the views which I expressed to him. He said he would call the subject up in cabinet meeting and there advocate my view of the case.

He actually did as he had promised me, and a day or two afterward sent me an unsealed letter, addressed to General Benjamin, directing the latter to withdraw the guard from the vicinity of Mr. Heberlein's premises, and to afford every opportunity and assistance for the embarkation of the refugees. After Mr. Heberlein and myself had noted the contents of this letter, we sealed it, according to the minister's request, and the former went with it to Gonaives.

I have learned that the minister also forwarded, by other means, a personal letter from himself and one from President Saget to General Benjamin, giving him to understand that there must be no deviation from the directions given in the formal letter sent by our consular agent, Mr. Heberlein.

The latter has subsequently informed me that the refugees and another person, named Bonhomme, who, as one of the supposed leaders of the insurrectionary movement was hotly sought after by the authorities, were all safely embarked for neutral territory.

* * * * * * * *

I think that the prompt and sensible action of the Haytien government in this case is due in no small degree to the friendly but wholesome lessons given to it in the cases of our vice-commercial agent at St. Marc and our consular agent at Miragoane last year.

I am, &c.,

EBENEZER D. BASSETT.

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No. 220.

Mr. Bassett to Mr. Fish.

No. 222.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 10, 1873. (Received June 23.)

SIR: Asking reference to my No. 215, of the 19th ultimo, I have the honor to represent that, in consonance with the President's proclamation, which is explained in that dispatch, elections have been held, or are in progress, in the eight communes that failed in January last to return members of the chamber of deputies and to elect their communal authorities.

The chief interest in these elections was centered in that at Port au Prince. According to the custom prevailing here in such cases, the minister of the interior issues his proclamation directing the elections to be held in the different communes, and then it devolves upon the chief magistrate of each commune to direct the preliminary details of the election in his locality. This commune is entitled to three deputies. The magistrate communal, as the chief communal officer is called, in giving the customary notice for the election here, stated that the voting was to be held for three deputies in this commune, thus attempting to ignore the facts that Mr. Boyer Bazelais had received the majority of votes at the election in January, and that his credentials had been accepted by the chamber of deputies in April. Thereupon Mr. Bazelais appealed to the courts, and for the first time in the history of the Haytien Republic, I think, the courts, in sustaining Mr. Bazelais, gave a decision against the known wishes and policy of the executive in a case involving political issues.

After many interruptions, and some arbitrary arrests of persons at the polls, who were known to be exerting themselves against the executive schemes and plans, the voting was entered upon, and resulted in a complete and overwhelming defeat of the government candidates for the chamber of deputies. It is said, also, that the members of the national guard, and the troops at the special service of the executive, who were brought forward to vote in executive interest, voted in many cases squarely for the anti-government candidates. And even the voting for the members of the conseil communal, (city government,) which was briskly carried on throughout Sunday last, and is still in progress, is said to be so far a complete rout of the government faction. Full returns have not yet come in from the seven other communes; but it is thought that even in them the government candidates have generally been defeated.

But the known urgent plans, purposes, and wishes of the executive in such a case, have never before been so clearly defeated in Hayti, except by revolution. It would thus seem as if the predictions advanced in my Nos. 178 and 179, of February 17, 1873, as to the improbability of General Domingue's constitutional election to the presidency by a vote of the corps legislatif, in April next, has been much strengthened, and that Hayti can scarcely escape another civil commotion of some sort between this date and that.

I have, &c.,

EBENEZER D. BASSETT.

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No. 221.

Mr. Bassett to Mr. Fish.

[Extract.]

No. 238.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 19, 1873. (Rec'd Sept. 5.)

SIR: President Saget's message was submitted to the corps legislatif and read before that body by the minister of interior and foreign affairs on the 13th instant. I send herewith inclosed two copies of the offical organ, Le Moniteur, of the 16th instant, in which the message is printed, and of which it covers, as will be seen, a little more than twenty columns.

In some respects, it is a remarkable document. Its length is believed to exceed that of any former paper of the kind from the executive to the legislature in Hayti, and has been interpreted in some circles here as an evidence of a desire and purpose on the part of the executive to be franker and more outspoken than has been the practice heretofore with the people and their representatives. In tone it is, as a whole, candid, cheerful, conciliatory, and, perhaps, commendably progressive. I presume that the recent accession to the cabinet of General Lamothe and Mr. Charles Haentjens will account for this and some other distinctive features in the message. * * * * * * *

In explaining, as required by law, his motive for availing himself of his constitutional privilege to convoke the corps legislatif in extra session, the president lays particular stress upon the foreign claims against this government, and in the same connection makes prominent a reference to the avoidance of new complications with foreign powers on account of those reclamations. The opening paragraph in which he gives this statement of motive, I have heard criticised in official circles here as being in unbecoming taste. Inclosure A is a translation of those paragraphs. It will be noticed that, notwithstanding the rather emphatic if not figurative language employed in them touching the claims, seven other subjects are brought forward for legislative consideration; and that of the twenty columns of Le Moniteur given up to the message, only about three are devoted to foreign affairs.

The president proceeds to refer to the retirement of the paper currency; to defend the executive interference with the elections here in January of this year, as well as the terrible and bloody action taken by the authorities at Gonaives, following the outbreak there in March last; to speak with some detail on several items relating to the condition and management of internal affairs, recommending in them several improvements, and then comes to the chapter on foreign affairs.

This chapter touches upon so many points of interest that I send a translation of it herewith, inclosed and marked B. What is there said of the Batsch affair, and especially of San Domingo and the reclamations on the government, if in some respects adroitly stated, seem to me, nevertheless, well worthy of attentive perusal. The allusion to my colleague, Her Britannic Majesty's minister resident, is thought to carry with it a commentary which some have thought not in complete accord with the perfect impartiality generally required of a diplomatic representative as to the internal affairs of the country to which he is accredited. The peculiar language used in speaking of Senator Sumner has rendered it noticeable that no mention is made in the message of political changes favoring the progress of liberal ideas in Europe, or elsewhere; none of emancipation in the neighboring island of Porto Rico, and none of other changes anywhere especially relating to that

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branch of the human family of which the Haytian forms part. Mr. Preston is spoken of as the (Haytien) representative in the United States, and not as minister plenipotentiary. It is observable, in view of the paragraph relating to the Haytien legations in Europe, that no mention has, I believe, ever been made in Le Moniteur of Mr. Preston's promotion to the grade of minister plenipotentiary.

The manner in which the legislature is urged to neglect nothing for the definite regulation of the spoliation claims is gratifying, and shows the effect of the representations made to this government from time to time, as I have faithfully reported to you, by my colleagues and myself on this subject.

The remarks and recommendations relative to the claims which arose to our citizens from transactions with this government under the administration of President Salnave, have been evoked, it is believed, entirely by our efforts to secure a just and equitable settlement of those reclamations. In this class of claims my colleagues have scarcely at all interested themselves. A day or two ago, for instance, my colleague, the French chargé d'affaires, read to me the dispatch, under cover of which he was about sending the message to his government. In it he alludes to what is said of our action on these so-called Salnave claims, and says, in rather a cold and indifferent way, that he believes there is one French citizen, a Mr. Defly, who has some interest in them. I think, therefore, that we may congratulate ourselves that in spite of prejudice, in spite of a lurking disposition, and I think purpose, to repudiate this class of reclamations, one branch of the government has at last been led to the point of formally urging a just and equitable settlement of them.

The remaining portions of the message are devoted to the departments of finance and commerce, of war and marine, and of public instruction, worship and justice. Some interesting statements relative to the finances and commerce are given. A recommendation is made that a coinage of base metal (bullion) be issued to an amount not exceeding four hundred thousand dollars, ($400,000.) The establishment of a national bank is favored, and then there is advanced the important statement, which is, of course, intended to apply to Hayti, that "a country which has four millions and a half of revenue, and of which the public debt does not amount to more than five millions, does not show that its finances are in a desperate condition." The full amount of all the ordinary expenses of the government for the fiscal year is given as two millions sixty-six thousand eight hundred and sixty-seven and $\frac{40}{100}$ dollars, ($2,067,867$\frac{40}{100}$). There should, therefore, be an annual balance left in the treasury, over and above ordinary expenses, of nearly two millions and a half, and the whole public debt could consequently be easily extinguished in three years. For the year ending September 30, 1872, the exportation of coffee is set down at sixty-four million seven hundred and ninety-two thousand six hundred and eight (64,792,608) pounds French; the exportation of cotton at four million one hundred and forty thousand three hundred and fifteen (4,140,315) pounds French.

What is said of the army and the navy may be taken together as a general recommendation to increase the efficiency of those branches of the public service. And the recommendation made for the department of public instruction and worship shows a commendable desire to be alive to those great fundamental elements which must underlie all true republics—education, morality and the Christian religion, permeating and springing forth everywhere among the masses.

I am, &c.,

EBENEZER D. BASSETT.

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A.

NATIONAL PALACE OF PORT AU PRINCE,
August 12, 1873, 70*th year of independence.*

MESSAGE.

Nissage Saget, president of Hayti, to the national assembly.

GENTLEMEN, SENATORS AND REPRESENTATIVES: The thirteenth legislature separated from the executive without deciding many pending questions of which the immediate solution was demanding its liveliest solicitude on account of their foreign character. From every side reclamations were poured in upon the government through diplomatic agents anxious of prompt satisfaction, and it was not without great difficulty that we were able to cause them to apprehend that your participation was indispensable for the resolution of such matters. We finally obtained a delay until your meeting, which, prevented by unforeseen difficulties, did not take place at the appointed time. To avoid new complications I was obliged, according to the terms of the seventy-sixth article of the constitution, to convoke you in an extraordinary session. The matters awaiting solution will be presented to your high appreciation, and my government will take advantage of the circumstances to demand of you—

1. To vote the annual imposts.
2. To vote the budget for the public service of 1873–'74.
3. Certain modifications to the law relating to the commune.
4. To re-organize the city and rural police.
5. The revision of the constitution, (if it is necessary.)
6. To replace the senators whose terms are about to expire.
7. And the sanction of different contracts passed with the object of promoting the public well being. Here are the definite motives of my proclamation of May 9, 1873.

B.

FOREIGN RELATIONS.

Our relations with the powers represented in Hayti continue to be satisfactory. The government of the republic attaches the highest estimate to the maintenance of this happy state of things, and it endeavors, by every means, to make known the sincere disposition with which it is animated on this subject. It finds a new motive to persevere in this policy in the reciprocal testimonies that it receives.

Thus was it particularly touched at the elevation to the rank of minister resident of Mr. Spencer St. John, who, up to the time of his recent promotion, had been chargé d'affaires of Her Britannic Majesty at Port au Prince, and who has acquired more than one title to our esteem. This elevation is a mark of consideration for our republic, and for its chief personally a proof of sympathy that it is our duty to signalize to your attention and that of the country.

SAN DOMINGO.

It is already nearly one year since our absorbing preoccupations in regard to the Dominican republic have diminished in intensity. Was it possible for us to rest indifferent to what was taking place upon the same soil that we tread? Was it possible for us, at least in what concerned our Dominican neighbors upon our frontier lines, with whom we are in continual contact and, consequently, in view of what concerns the interior security of our population, not to take note of the consequences of a modification in the conditions of the sovereignty of that republic? This question has entered into a new phase, in which it still remains, into a phase which it belongs alone to the decision, to the sole will of the Dominican people to modify or maintain. However, from the first day that our attention commenced to be drawn to this subject until the present moment, our conduct has not varied. Our duties consisted, and still consist, in watching for the maintenance of the most complete order upon our frontiers, and in taking precautions against all that could trouble the tranquillity of our population, while at the same time we persevere in the observance of the prescriptions dictated by our firm will not to intermeddle in the affairs of the neighboring republic. Such is the line of conduct which we trace out for ourselves and which we continue to follow.

ISLAND OF NAVAZE.

At the moment when the thirteenth legislature adjourned last year the attention of the department of foreign affairs was especially absorbed by two reclamations to be

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followed up, one concerning the acknowledgment of our sovereignty over Navaze by the Government of the United States, the other having for its object the obtaining of redress from the imperial German government for the conduct of Captain Batsch. The affair of Navaze has not yet had a definite solution. It is pursued, however, with the most persevering solicitude, and the representative of the republic in the United States knows how much the government desires that he should neglect nothing in order to cause our valid right in this matter to be recognized and respected.

THE BATSCH AFFAIR.

The mission of our envoy extraordinary and minister plenipotentiary to Berlin, General Brice, has had a result of which the national honor can take note. Indeed, at the same time that it communicated to us the regret that it felt at what had taken place in our waters, and expressed the wish that this deplorable incident would not alter the good relations existing between the two countries, the imperial German government informed us that it had called Captain Batsch, then on a trip to America, to come at once to Berlin in order that his conduct might be made a matter of investigation. Our minister plenipotentiary thought it his duty to consider, and we felicitate him on his conclusion, that as sufficient satisfaction for the kind and sympathetic reception which he received at Berlin, and the declarations which were made to him by the imperial government, were undoubted testimonies of a spirit of moderation and conciliation, resulting from a sentiment of justice toward us which contrasted in a striking manner with the proceedings of Captain Batsch and constituted a severe blame for his conduct. At the termination of this delicate mission, for the accomplishment of which he had prolonged his sojourn in Europe, the chief of our legations at Paris, London, and Madrid, General Brice returned to our midst after having represented the republic, near the cabinets of Paris and St. James especially, during a period of nearly three years.

EUROPEAN LEGATIONS.

The legislative chambers had decided that after the return of our minister plenipotentiary the direction of our legations in Europe should be confided to a chargé d'affaires accredited both to Paris and to London. The government hastened to put into execution this resolution. However, it thought that in the interest of the effective prosecution of our diplomatic service abroad it would be preferable to establish a responsible chief for each legation independent of one another, residing at the very seat of his mission and in constant communication as well with us as with the department of foreign affairs where he is accredited. It was an application, more in conformity with the necessity of the case, of the thought which had dictated the measure adopted by the chambers, and this augmentation of the personnel of these legations could produce no inconvenience so long as it involved no augmentation of the expense voted to the bureau of foreign affairs for our representation abroad, that, thanks to a repartition that you will appreciate, we have been able to create two distinct legations, one at Paris, and the other at London, each one directed by a chargé d'affaires having with him a secretary of legation.

PORTRAIT OF MR. SUMNER.

The department of foreign affairs has not failed to give effect to the generous resolution concerning the portraits of the Hon. Senator Sumner, that are to be executed and placed in the halls of the senate and house of representatives. The sum voted has been placed at the disposition of our representative in the United States, and we shall not be long delayed in possessing and seeing in the halls of your sessions the sympathetic figure of the man who has acquired so many titles to the veneration of the Haytian people.

ARBITRATION OF AMERICAN CLAIMS.

We have been obliged to have recourse to arbitration in two cases with the view of determining and fixing the amount of indemnity to be accorded: first, to a claim comprised of those referred to the examination of the Americo-Haytien mixed commission: second, to another claim presented by the minister resident of the United States of America, in favor of Mr. Teel, consular agent of the United States, arrested some time since under suspicion, not substantiated, of fabricating false money. Mr. Henry Byron, vice-consul of Her Britannic Majesty, was chosen by both parties as arbitrator in each of these cases.

INDEMNITY TO FRANCE.

The government experiences a sincere satisfaction in bringing to your knowledge the fact that the payments on our double debt to France which have fallen due since your last session, and amounting to 2,792,234.40 francs, have been punctually paid. This regularity in the payment of our debt has permitted to undertake again the drawing of the obligations of the loan which has been abandoned since 1866. The government is happy and proud of this result, which raises the credit of the country, and shows it to be careful to meet its sacred engagements.

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CONSULAR CONVENTION WITH THE UNITED STATES.

The minister resident of the United States of America asked of the government of the republic, by virtue of instructions and of powers that he had received to that effect, to fix with him, conformably to the thirty-seventh article of the treaty of friendship, commerce, and for the extradition of fugitives from justice, existing between the two countries, the powers and immunities of consuls and vice-consuls of the respective parties. The government has hastened to respond to this demand by naming as its plenipotentiary Mr. Thomas Madion, who has been furnished with the necessary instructions in the premises.

FOREIGN SPOLIATION CLAIMS.

The settlement of foreign claims for losses endured during our late civil war has not failed to claim a large share of the government's preoccupation. These claims were submitted at the time, as you know, to the examination of mixed commissions. The report of the Anglo-Haytien commission was the first prepared and presented. But the representative of Her Britannic Majesty not finding in the principal decisions of that commission the application of the principles which, according to his government, should serve as rules in the examination of claims presented, a new commission was named on his demand. But the new report upon the subject was only presented after the close of the chambers. Two or three days before the close of the last session the Americo-Haytien commission presented its report, and the Franco-Haytien commission had only time to present a schedule of the claims admitted by it and the amount of the same. Nevertheless the government hastened to ask your authorization to satisfy the claimants. The response given was that the session was too far advanced for the chambers to have the necessary time to exercise their right of a general examination and create the means to be effected to the payment of the claims recognized to be legitimate. The settlement of these affairs was therefore sent over to the next session. The Count E. de *Lémont*, chargé d'affaires and consul-general of France, protested against this decision, and upon our declaration of our inability to pay immediately the amount assigned to his countrymen and admitted by the Franco-Haytien commission, he sent us a note in the form of a protestation, in which he declared that he would not accept the deductions made by the commission, and demanded that the sum total of these claims be paid, giving to us a delay of forty-eight hours for the payment, passing which delay, if the payment was not made, he would leave the prosecution of the matter to the admiral commanding the naval station of the Antilles.

It is well to remark here that the representatives of England and the United States confined themselves to the making known to the government of their desire that it should not send over to the next session the settlement of their claims, and they assured us that their governments would have an unfavorable impression of this prolonged delay.

A step so pressing as that of the chargé d'affaires of France caused us to apprehend some serious difficulties. To prevent them the government thought it wise to carry the question before the French government and to ask directly from it its consent to the delay that the chambers had fixed. The chargé d'affaires of France was informed of this design, in which he acquiesced. He did not delay to announce to us himself with a benevolent haste that he was authorized to make known to us that our demand was favorably received by the French government. Thus we have been happy to acknowledge once again that we never count in vain upon the high impartiality and the sentiment of justice which animates France and her government toward us.

Lately the representative of Her Britannic Majesty communicated to us the desire of his government to see regulated, as quick as possible, the claims of English subjects, and this department was obliged to make known to him the line of conduct that the government was obliged to follow. We feel persuaded that he has appreciated the considerations which have been set forth to him in this matter.

The government is convinced that you will give your most serious attention to all that concerns these claims, and that you will neglect nothing for their definite settlement according to the mode that it will propose to you, or according to some other method that you shall judge preferable. It has engaged itself to insist on it before you that no new delay should come to give birth to those difficulties which have already cost us great efforts to appease. Your wisdom and your patriotism will weigh this engagement and inspire you with salutary resolutions.

SALNAVE CLAIMS.

The government recommends also to your solicitude the documents which will be communicated to you relative to the objections that the Government of the United States of America has thought necessary to formulate, through its representatives, against the application to its citizens of certain dispositions of the law of the 24th of August, 1872, fixing the method of settling the claims against the Salnave administration. It belongs alone to the legislative chambers to examine and appreciate this protest against

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a law already voted and promulgated. It belongs to them to conciliate in the measure that they may judge proper, and, as far as the case demands, to fix the satisfaction that can be accorded in a matter where important interests are at stake involving the principles of international and public law actually admitted and practiced in such cases by civilized nations.

The department of foreign affairs will spare no pains to facilitate the adoption of measures that may bring about a solution that shall be just, equitable, and satisfactory to the two governments.

CONCLUSION.

Such is the summary and faithful exposition of what has taken place of importance in the interval of the two sessions. The secretary of state of foreign relations will hold himself at the disposition of the two chambers, to communicate to them all the documents, to furnish to them all the information which shall be useful to them in the accomplishment of their mission of controlling and of conscientiously examining the public affairs, for this is the indispensable condition of the adoption of the resolutions that you will judge necessary for assuring the well-being of the interests confided to this department.

XIX.—HAWAIIAN ISLANDS.

No. 222.

Mr. Peirce to Mr. Fish.

No. 148.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, May 6, 1872. (Received May 30.)

SIR: I have the honor to inclose herewith printed copy of His Hawaiian Majesty's speech, delivered to the legislative assembly at its opening on the 30th ultimo, and marked No. 1. Also, marked No. 2, newspaper slips from the Pacific Commercial Advertiser of the 4th instant, giving an account of the ceremonies which took place on the above occasion, together with an article on "Political Reform," interesting as showing the direction which the opponents of the present government are taking in their assaults upon it. The mass of natives, as well as naturalized foreigners, have never been reconciled to the act of the ruling sovereign in arbitrarily setting aside the constitution of 1852 and substituting that of 1864, a revolutionary proceeding that is likely to react upon him at some future time.

I have to acknowledge the receipt of your dispatch No. 60, covering one from Hon. Secretary Boutwell in relation to the abrogation of certain articles of the treaty of 1857 between Hawaii and France.

With respect, &c.,

HENRY A. PEIRCE.

(Inclosure 1.)

His Majesty's speech at the opening of the legislative assembly, April 30, 1872.

NOBLES AND REPRESENTATIVES: At the opening of the legislative assembly of 1870 I commended to its attention foreign and inter-island steam communication, and the assembly of that year responded by making liberal appropriations. The means placed at the disposal of my government for these purposes have been used as it was intended. The report of my minister of the interior will show you the gratifying fact that steam communication between the islands is likely to be self-supporting, and will encourage the hope that the public necessity will call for an increase of that service at an early

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day. Steam communication with the coast of America and with the New Zealand and Australian colonies seems now to be firmly established, and I have not a doubt that the money devoted by us to this object will be found to be wisely expended.

During the last two years agriculture has repaid handsomely those who have pursued it with courage, diligence, and enterprise. It is the life of the nation, not only from its profitable returns, but as tending directly to the increase of the population, and the prolongation of vigorous life. I therefore hope that you will not neglect to further its interests by every means in your power. But, while giving your earnest consideration to it, I trust that every other interest will receive likewise its share of your attention.

Our relations with foreign governments continue to be of the most friendly nature. Since the adjournment of the last legislative assembly I have concluded a treaty of amity and commerce with His Majesty the Emperor of Japan, the text of which will be laid before you. The treaty of reciprocity, which was at the last session of this body before the Senate of the United States, failed to receive the number of votes necessary for its ratification. I have directed notice to be given of my desire for the termination of those articles of the treaty with France, signed at Honolulu October 29, 1857, which it is agreed by the 26th article of that treaty may cease to have effect after one year's notice. This will leave you free to make such changes in the tariff as you in your wisdom may think proper.

The report of my minister of finance will present to you most gratifying evidence of the good condition of our finances.

The interests of the cause of education have never been more thoroughly attended to, and the results of that attention have been most encouraging.

Justice has been administered equally and impartially to all. Peace, contentment, and prosperity have reigned within our borders.

All the works which have been undertaken and completed, as well as those which are now projected for the public benefit, have had and do have my most hearty concurrence, and I therefore commend to you most earnestly the recommendations of my ministers in this respect.

It is my painful duty to inform you that the widow of my predecessor, His late Majesty Kamehameha III, deceased at her residence in Honolulu September 20, 1870.

Representatives: It is with great pleasure that I see among you so many who in former years have had experience in legislative business, and who, by their return to this assembly, give evidence that the people have the same confidence in their experience which I myself entertain.

Nobles and representatives: I pray, most humbly and heartily, the King of kings so to rule your councils that everything may be ordered for the public good; and with this prayer I commend the interest of our country to your wisdom, patriotism, and fidelity, in which I have unfailing reliance.

We do now declare the legislature of the kingdom opened.

[From the Pacific Commercial Advertiser, Saturday, May 4, 1872.]

OPENING OF THE LEGISLATIVE ASSEMBLY.

The legislature of the kingdom, convened by royal proclamation dated the 27th of February last, met at the court-house on Tuesday last, at 12 o'clock noon, in the supreme court-room of the court-house. A large concourse of ladies and gentlemen filled the hall outside the bar of the house. As His Majesty left the palace in the state coach, under escort of the Hawaiian cavalry, Major Judd, the battery on Punch-Bowl, and Her Britannic Majesty's sloop-of-war Scout, fired royal salutes. On the arrival of the royal cortege at the court-house the troops drawn up in line presented arms, the band played the national anthem, and His Majesty, accompanied by the chief justice and his ministers, proceeded to the legislative hall, where, after reading of prayer by the venerable Archdeacon George Mason, the assembly for 1872 was formally opened by His Majesty in the following gracious speech.

[From the Pacific Commercial Advertiser, May 4, 1872.]

POLITICAL REFORM.

In the present condition of Hawaiian politics it is a difficult and somewhat delicate operation to criticise with absolute freedom and impartiality matters pertaining to our civil service. Allowing, for the sake of argument, that the royal proclamation, which overrode the constitution in 1864, is entitled to respect as a legitimate constitu-

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tion, we, the people, who are to yield it our allegiance, are placed in a situation both perplexing and demoralizing. The age is past when men can be expected to change their political opinions at the command or whim of rulers. We may have accepted the old constitution honestly, adhered to it affectionately, and have seen it superseded with regret; and it may be impossible for us to accept the somewhat different principles of the present—yes, call it—constitution. This makes us malcontents, and what expression we may give to our political feelings revolutionary. Or we may gradually become convinced by suitable arguments and circumstances, and by the gentle influence of time, the great healer, that the present—well, yes—constitution is the best thing possible, all things being considered, and that the old one was behind the times, and unfit for an enlightened and high-minded administration. And we may enthusiastically and devotedly commit ourselves to the present condition of things, and swear by the constitution to our last dollar; and then it may happen in the ordinary course of events that our conscientious rulers, for reasons satisfactory to themselves, shall publish some quiet morning a new constitution, containing principles diametrically opposed to the present, and declaring the preceding one to be "hereby canceled;" which ingenious bit of administrative tactics will, of course, bring upon the late strong patriots the awkward dilemma between a hasty and humiliating political conversion and remaining suspected plotters and malcontents. Or a new administration may arise, who shall restore the constitution of the last two reigns; which political retrogression would place certain individuals in circumstances too painful for us to dwell upon. So that whatever may happen, under that article of our present interesting political creed, which places the constitution of the state in the position of a cabinet minister, or a member of the privy council, to wit, "to hold office at the king's pleasure," the results are sure to be inconvenient to somebody. And whoever freely discusses these subjects in a public way is likely to be regarded as an extreme radical, a Jacobin; or if his views happen to be politically orthodox now, they may be quoted against him with damaging effect under the next act of the civil drama.

With these possible difficulties before us, and in spite of them, we wish to use our privilege of free discussion, and give a short space to the suggestion of certain reforms much needed in the government; this in answer to those who accuse us of being willing to cause trouble, by publishing our imperfections, without at the same time furnishing or proposing any remedy. But, in truth, it is much easier to discover faults than to cure them. Our country and sovereign, at the beginning of the present reign, surrounded by weak, incompetent, and ignorant advisers, were led into mistakes which have resulted in a situation almost hopelessly discouraging. It is hard to know what to do first, which way to turn. We are entangled in a political morass, are badly mired in it, and are sinking instead of rising. The government has become unpopular, and consequently weak.

As our chief political losses have come upon us through the present constitution, we naturally look to the right of amendment thereto, graciously granted in its articles, for our remedy. Article 80 provides that "Any amendment or amendments to this constitution may be proposed in the legislative assembly, and if the same shall be agreed to by a majority of the members thereof, such proposed amendment or amendments shall be entered on its journal, with the yeas and nays taken thereon, and referred to the next legislature; which proposed amendment, or amendments, shall be published for the three months previous to the next election of representatives; and if in the next legislature such proposed amendment, or amendments, shall be agreed to by two-thirds of all the members of the legislative assembly and *be approved by the King*, such amendment or amendments shall become part of the constitution of this country."

The words which we have emphasized give to an otherwise cumbersome and somewhat impracticable provision an atmosphere of levity and nonsense of the most masquerading type. Of course this method is useless in regard to any reform that the King may object to, while as to changes that he may favor, it would be much the best and cheapest way for him to amend by royal order, which under our present civil creed is perfectly consistent and regular, and so save the two years' delay.

The chief subjects of reform are, first, to restore the legislature to its legitimate arrangement of nobles and representatives, sitting and voting separately, each having a negative on the other; second, to restore the absolute independence of the judiciary by repealing article 65 of the constitution. The restoration of the legislature to its two-house form was attempted in the session of 1868. Mr. Wilder brought in a resolution to this effect, which was well supported by minority composed of the best intelligence of the house, S. G. Wilder, A. F. Judd, H. R. Hitchcock, C. R. Bishop, and C. J. Lyons, speaking in its favor, while Messrs. Nahaku, Hopu, Koakauw, Mahelona, Kaukaha, and Rhodes spoke against it. Perhaps the best argument made on this side of the question was one launched by Mr. Rhodes, who was opposed to the amendment, because the constitution as it was, strenghtened the ministry, and under the then circumstances they needed strength. Unfortunately for us, this argument may be urged with as telling force now as then. The motion was lost by a vote of twenty-eight to ten.

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This is a matter of the highest importance to the nation and to each individual in it, and on which depends the existence of our civil liberty and self-government.

In regard to the independence of the judiciary, it needs no argument to show that to put into the hands of the Executive the power of suggesting reasons—they may be private, personal, social or political—for removing the judges from office, is a most dangerous blow to the highest welfare of the state. The supremacy of law must be guarded intact, or law and justice will be driven from us.

There are many other features of the constitution that are so utterly bad, and there is so much left out that ought to appear in every bill of rights, that if amendment was a practical thing, nothing better could be done than to amend by repealing the whole eighty articles in one motion in favor of a *real* bill of rights, which should recognize *equal* rights, the sovereignty of the people, and a government of three estates.

It seems clear that, however great is the need of reform, the way to it is rendered practically inaccessible by despotic limitations against civil liberty. Even if the steps were more available, such is the undue influence of the Crown in the government, that it does not seem very probable that important changes could be effected in the present state of political intelligence among the Hawaiians. It is not probable that the present constitution can survive even for a single generation; there is a certain constitutional weakness about it which renders such a conclusion imperative. Whether the Hawaiian government will be able to survive it, is a question whose solution is dependent upon the length of time that that decree of despotism continues to sap its strength and stand for its fundamental law.

No. 223.

Mr. Peirce to Mr. Fish.

No. 157.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, July 22, 1872. (Received August 24.)

SIR: His Majesty the King is quite ill in health and has secluded himself from his ministers and the performance of public duties. Official business is at a stand-still, so far as requires action on his part.

No immediate danger of the King's decease is, however, apprehended; but should the event take place, a crisis in the political affairs of the kingdom is anticipated therefrom.

The United States ship St. Marys, Commander Harris, is still in port; to sail for Sitka on the 1st August.

In case it should appear necessary for the protection of American interests here, I may officially request Commander Harris to remain for a longer period.

With respect, &c.,

HENRY A. PEIRCE.

No. 224.

Mr. Fish to Mr. Peirce.

No. 71.] DEPARTMENT OF STATE,
Washington, October 5, 1872.

SIR: Your dispatches Nos. 147 and 151, relative to the hospital system at Honolulu, have been received. This is a subject which has for many years occasioned much trouble and anxiety to the Department. This probably may be expected to continue until some such measure as that which you recommend shall be carried into effect; namely, the construction there, by this Government, of a hospital for its own purposes, to be under the supervision of a retired surgeon in the Navy.

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At present, and for some time past, it seems that the sick seamen of the United States have been and are medically treated in a hospital of which John S. McGrew, M. D., is proprietor, pursuant to a contract between him and Thomas Adamson, jr., late consul of the United States at Honolulu, which contract was subsequently approved by the Department. There were ample grounds for this approval; for among other letters from high sources attesting the personal and professional worth of Dr. McGrew, is one from yourself to him, of the 5th of August, 1869. An erroneous impression, however, seems to be current, that because he, a private physician in Honolulu, is professionally employed to treat invalid seamen of the United States, the building where he lodges them for that purpose is necessarily a United States hospital. The Department apprehends that you yourself may have been misled by this impression into the course which recently you have thought proper to take with reference to Dr. McGrew and his hospital. It seems that that building is not far from the King's palace, so called, and is also opposite to a hotel. A case of small-pox having been reported to be under treatment there, occasioned such alarm that Mr. Harris, the Hawaiian minister for foreign affairs, under date the 15th of May last, addressed you a note stating that it was not agreeable to His Hawaiian Majesty to have the hospital so near his house, and that it would be a favor if it were removed. The note also refers to a previous conversation with you on the subject; but expresses distrust as to whether you have authority in the matter. It may be regretted that in the conversation referred to you should not have so impressed Mr. Harris with a true view of the relation between this Government and the hospital as to have confirmed his distrust as to your authority. Even, however, if you had not succeeded in this, the future correspondence and apparent irritation upon the subject might have been avoided, if, by informal personal interviews with Dr. McGrew, you had endeavored to induce him to comply with the wishes of the Hawaiian government. He is a private citizen of the United States, and the hospital is his property. This Government is bound to protect both pursuant to treaty and public law, and not to injure either at the instance of, or through undue deference to, the local authorities. The 8th article of the treaty with the Hawaiian Islands, of the 20th of December, 1849, stipulates in respect to the citizens and subjects of the parties respectively, "their dwellings, warehouses, and all premises appertaining thereto, destined for the purposes of commerce or residence, shall be respected."

It would have been preferable for the Hawaiian authorities to have objected to the choice of Dr. McGrew of a site for his hospital, but when once chosen he should not have been expected to vacate it contrary to his own wish, except by due process of law through the proper tribunals.

You also impugn the accommodations and management of Dr. McGrew's hospital, and in support of your views transmit a copy of letters addressed to you by Drs. Ver Meulen and Browne of the Navy. The statements in these letters, however, are regarded as too vague to warrant a concurrence in their opinion. This is especially the case as statements of an entirely opposite character are on file in the Department from persons professionally and otherwise of the highest authority. Under these circumstances the Department feels constrained to withhold its sanction of your course in this instance.

I am, &c.,

HAMILTON FISH.

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No. 225.

Mr. Peirce to Mr. Fish.

[Extract.]

No. 174.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, Dec. 11, 1872. (Received Jan. 2, 1873.)

SIR: The sovereign of this kingdom, King Kamehameha V, died in this city this forenoon of apoplexy, the anniversary day of his birth, and at the age of 42 years.

The event occurring unexpectedly, and the fact known that the King refused to name a successor to the throne, have caused great excitement in the native and foreign community. Inclosed herewith is an extract from the Hawaiian Gazette of this date, announcing the demise of His late Majesty, and officially summoning the legislative assembly to meet on Wednesday, January 8, 1873. That body, by the 22d article of the constitution of the realm, is empowered in a case like the present "to elect by ballot some native alii (chief) of the kingdom as successor to the throne, and the successor so elected shall become a new stirp for a royal family." As there will be several candidates before the assembly, from whom they are to choose one only of the number, for king, a fierce contest is likely to arise among the competitors, each backed by a strong party of retainers.

Whether those failing of election will take up arms against the successful one is problematical.

I am of opinion the former will acquiesce in the result of the action of the legislature. Owing to the republican sentiments instilled in the people by their missionary teachers from New England, through churches, schools, and books, no doubt exists that the mass of the natives would prefer an elective form of government to the present monarchical one. But whether, to obtain it, they would proceed so far as to resort to violence and revolution is very questionable.

* * * * * * *

In view of the critical condition of political affairs, and as a measure of precaution for the safety of persons and property of our citizens here in case of an outbreak, I strongly urge and request that a United States vessel of war be sent here from San Francisco *as soon as possible*, and that one shall hereafter be kept in these waters constantly, under a system of reliefs.

* * * * * * *

With respect, &c.,

HENRY A. PEIRCE.

[Inclosure.]

[From the Hawaiian Gazette of Wednesday, December 11, 1872.]

The health of His Majesty has been failing for some time, and during the last night he experienced a very severe attack, from which, however, he rallied sufficiently to encourage the hopes of his attendants. But at 10 o'clock an unfavorable change took place, and at 20 minutes after 10 o'clock he breathed his last without suffering.

F. W. HUCHISON.
STEPHEN H. PHILLIPS.
ROBERT STIRLING.

IOLANI PALACE, *December* 11, 1872.

(The order summoning the legislative assembly is printed as an inclosure to Mr. Peirce's No. 177, of January 10, 1873.)

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No. 226.

Mr. Peirce to Mr. Fish.

[Extract.]

No. 177.] LEGATION OF UNITED STATES OF AMERICA,
Honolulu, December 18, 1872. (Rec'd January 10, 1873.)

SIR: As the contest to elect a successor to the crown promises to be of an exciting character, I now give you the names and characteristics of those persons thought to possess the most right to be selected as candidates for election to the throne:

First, Prince William C. Lunalilo, who claims to be a grandson of Kamehameha I. He is about forty years of age, well educated, of literary tastes, and considerable mental ability, both natural and acquired.

* * * * * * *

The prince possesses considerable property under the care of guardians. He is said to be very liberal, even democratic, in political sentiments.

Inclosed herewith is a printed copy of an address or proclamation to the people, issued by the prince on yesterday, and wherein he calls for a vote by the people, or a plebiscitum, on the 1st of January ensuing, and thereby to manifest their sense of his claim to the vacant throne. He promises, if elected, to restore the constitution of 1852, illegally set aside by the late King for one of his own, that of 1864.

Second, Ruth Kaliiokalani; she is half-sister to His late Majesty and inherits his property.

* * * * * * *

Third, Col. David Kalakaua, a chief who is descendant of one of the former Kings of Hawaii; well educated, speaks English well, of polished manners and bearing, commandant of the royal guards.

* * * * * * *

Fourth, Bernice Paki; by descent of high rank, both on father and mother's side; finely educated, and a perfect lady. She is the wife of Hon. Charles R. Bishop, a native of Sandy Hill, N. Y., and a noble of this kingdom, and banker in Honolulu by profession. A few hours previous to the death of the King, when urged to name his successor, she was sent for by him and to her he offered the crown, but she refused to accept it. It is therefore doubtful whether she will permit the use of her name as a candidate before the legislature. Mr. Phillips, a member of the cabinet, intends to urge her claim upon the legislature, she being the first choice of the late King. Mr. Phillips thinks the fact should be officially made known.

As all parties express a desire to preserve the peace during the canvass for election of a new King, I feel confident no disturbance will occur unless the legislative assembly should elect some one as sovereign other than Prince William.

In such case it is thought by his friends that he will not acquiesce in the choice, but place himself upon the throne by force if necessary.

I also inclose some extracts from the Commercial Advertiser, of the 17th instant, and the Hawaiian Gazette, of this morning, bearing on the subject-matter.

With respect, &c.,

HENRY A. PEIRCE.

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[Inclosure 1.]

TO THE HAWAIIAN NATION.

William C. Lunalilo, son of Kekauluohi, the daughter of Kamehameha I, to the Hawaiian people, greeting:

Whereas the throne of the kingdom has become vacant by the demise of His Majesty Kamehameha V on the 11th of December, 1872, without a successor appointed or proclaimed;

And whereas it is desirable that the wishes of the Hawaiian people be consulted as to a successor to the throne: Therefore,

Notwithstanding that, according to the law of inheritance, I am the rightful heir to the throne, in order to preserve peace, harmony, and good order, I desire to submit the decision of my claim to the voice of the people, to be freely and fairly expressed by a plebiscitum. The only pledge that I deem it necessary to offer is that I will restore the constitution of Kamehameha III, of happy memory, with only such changes as may be required to adapt it to present laws; and that I will govern the nation according to the principles of that constitution and a liberal constitutional monarchy, which, while it preserves the proper prerogatives of the Crown, shall fully maintain the rights and liberties of the people.

To the end proposed, I recommend the judges of the different election-districts throughout the islands (hereby appealing to their ancient allegiance to the family of the Kamehamehas) to give notice that a poll will be opened on Wednesday, the 1st day of January, A. D. 1873, at which all male subjects of the kingdom may, by their vote, peaceably and orderly express their free choice for a King of the Hawaiian Islands as successor of Kamehameha V; and that the said officers of the several election-districts do, on a count of the vote, make immediate certified return of the same to the legislative assembly, summoned to meet at Honolulu on the 8th day of January, 1873; that if any officer or officers of any election-district shall refuse to act in accordance herewith, or if there shall be a vacancy in said offices in any district, the people may choose others in their places, who may proceed, in conformity to law, in conducting the election.

Given under my hand, at Honolulu, this 16th day of December, 1872.

God protect Hawaii Nei!

[Inclosure 2.]

Extracts from Hawaiian Gazette of December 18, 1872.

Immediately upon receiving the intelligence of the demise of his late most lamented Majesty Kamehameha V a cabinet council was assembled at Iolani Palace on Wednesday, December 11, 1872, at 11 o'clock a. m., at which all the members were present, and after considering the provisions of the constitution of the kingdom, in such case made and provided, it was—

Ordered, That a meeting of the legislative assembly be caused to be holden, at the court-house in Honolulu, on Wednesday, which will be the 8th day of January, A. D. 1873, at 12 o'clock noon; and of this order all members of the legislative assembly will take notice, and govern themselves accordingly.

FERD. W. HUCHISON,
Minister of the Interior.
STEPHEN H. PHILLIPS,
Attorney-General.
ROBERT STERLING,
Minister of Finance.

The attention of all officers of the government is respectfully invited to the impropriety of any official interference in determining the question of succession to the throne.

It is a question upon which every subject undoubtedly feels the deepest interest, and all have a right to express their views in an orderly manner, individually and collectively, and to suggest their wishes to the members of the legislative assembly, to whom, by the constitution, the right of choosing a successor belongs. But no officer of the government has any official right or duty in the matter, least of all in an official capacity, to hold or preside at any election for which the sanction of official authority is claimed.

F. W. HUCHISON,
Minister of Interior.
S. H. PHILLIPS,
Attorney-General.
R. STIRLING,
Minister of Finance.

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No. 227.

Mr. Peirce to Mr. Fish.

No. 180.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 4, 1873. (Received March 3.)

SIR: I have the honor to inclose herewith, marked No. 1, a slip from the Hawaiian Gazette, of December 18, containing an obituary notice of the late King Kamehameha V, &c.; also letters of condolence from this legation and the foreign consuls respectively, addressed to the Hawaiian minister, in reply to an official circular notifying them of the demise of His late Majesty.

In reference to the circular or proclamation of Prince William C. Lunalilo, addressed to the Hawaiian people on the 16th ultimo, forwarded with my dispatch No. 177, duplicate of same herewith inclosed, marked No. 2, I have to inform you that it was received by them and the foreign residents with entire approval and satisfaction, and, in the excitement produced by the political status, had a composing effect, like oil poured upon troubled waters.

On the 28th December, however, Col. David Kalakaua, next in rank by birth to Prince William, and a candidate for election to the throne, issued an inflammatory appeal to the people, evidently intended to arouse the baser portion of the people to come to his support in the struggle for the crown. The circular is composed in the ancient Hawaiian dramatic style of language, alludes to the influence of foreigners over the government, and consequent danger of the transfer of the sovereignty of the islands to the United States, and closes with the battle-song of Kamehameha, the Conqueror of the Group.

A translation of the same is herewith inclosed, marked No. 3.

It created considerable alarm in the community for a few days, increased by reports of a rising of the adherents of the colonel against resident foreigners, with an intended attack on a gun-battery which commands the town.

Under the circumstances, the arrival of a United States vessel was devoutly desired, for the protection of life and property. Confidence, in regard to security of both, soon returned, however, when it was ascertained that Colonel Kalakaua's appeal fell still-born, and that the mass of the people were favorable for election of Prince William in preference to any other candidate.

Inclosed herewith, marked No. 4, is an account cut from the Semi-Weekly Commercial Advertiser, headed "The Prince," of a visit and address made to Prince William on the 30th ultimo by ten American shipmasters, who congratulated him on the prospect of his election to the Hawaiian throne, and presenting their views in regard to the future welfare of this port and kingdom, &c.

On the 1st of January the legal voters on the several islands cast an informal ballot at the polls, as an indication of their choice or selection of a candidate to fill the throne, and the act was to be regarded as instructions to the legislative assembly to elect him on the meeting of that body.

Inclosure herewith, marked No. 5, gives the result of said balloting, and that William C. Lunalilo has been selected by the people as the future sovereign of the kingdom. The assembly will no doubt do the same.

The quiet and good order preserved by the people generally is remarkable, and highly to their credit.

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The inclosed extract, marked No. 6, from the "Friend" newspaper of January 1st, with the title, "The future King," gives an interesting account of Prince William. Accompanying the same is a paragraph headed, "We, the People," worthy of perusal, as showing that a new era has dawned upon the Hawaiian nation.

It seems to be a settled purpose to set aside, legally or illegally, the constitution of 1864, and to adopt a more liberal one. The only difference of opinion, in regard to the same, relates to the method which shall be taken to accomplish it.

Inclosure marked No. 7, referring to the subject, may be interesting.

I am, &c.,

HENRY. A. PEIRCE.

(Inclosure No. 1.)

Extracts from Hawaiian Gazette of December 18, 1872.

The attention of all officers of the government is respectfully invited to the impropriety of any official interference in determining the question of succession to the throne.

It is a question upon which every subject undoubtedly feels the deepest interest, and all have a right to express their views in an orderly manner, individually and collectively, and to suggest their wishes to the members of the legislative assembly, to whom, by the constitution, the right of choosing a successor belongs. But no officer of the government has any official right or duty in the matter, least of all in an official capacity, to hold or preside at any election for which the sanction of official authority is claimed.

F. W. HUTCHISON,
Minister of the Interior.
S. H. PHILLIPS,
Attorney-General.
R. STIRLING,
Minister of Finance.

HONOLULU, *December* 17, 1872.

CHAMBERLAIN'S NOTICE.

The court will go into full mourning for His late Majesty Kamehameha V from the date of this notice until two weeks after the funeral, and will wear half mourning from that time until the expiration of two months from the day of the funeral. Ladies will wear black with white trimmings for full mourning, and white with black trimmings for half mourning. All members of the government and all persons connected with the court will wear crape on their several uniforms. Gentlemen being civilians will wear black dresses, with hat-bands, and crape on the left arm, during the period of full mourning, and hat-bands, and crape on the arm, during the period of half mourning.

All representatives of foreign countries, consuls, and commercial agents are invited to observe the period of mourning herein prescribed, and the public generally are requested to show their respect for the memory of the late lamented sovereign by wearing badges of mourning during the time specified.

H. PRENDERGAST, *Chamberlain.*

CHAMBERLAIN'S OFFICE, *December* 11, 1872.

OBITUARY.

It was our painful duty on Wednesday last to announce the unexpected death of His late Majesty Kamehameha V, at ten o'clock and twenty minutes a. m. on that day. His Majesty had completed his forty-second year on the day of his death, having been

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born on the 11th day of December, 1830. The day which had been set apart as a day of rejoicing and the congratulations of a loyal people, was, by the inexorable decree of the King of Kings, turned into a day of deep affliction and sincere mourning.

His late Majesty was the elder brother of his predecessor, Kamehameha IV, they being the sons of Kinau, the daughter of Kamehameha I, the founder of the dynasty, and who by his brilliant achievements made himself the sovereign of the archipelago, and his highness Mataio Kekuanaoa, whose death at an advanced age occurred November 14, 1868.

His late Majesty ascended the throne on the death of his predecessor, Kamehameha IV, November 30, 1863, his reign at the time of his death having extended over a period of nine years and eleven days. His Majesty possessed in a great degree the distinguishing characteristics of the illustrious founder of the kingdom, uniting with rare firmness of purpose and great ability a clear and comprehensive view of the duties and responsibilities of his high position. He was ever alive to the necessities of the time and to the best interests of his people. Thoroughly educated, and having observed and taken part in some of the most important events in Hawaiian history, and served two of his predecessors as an active and able adviser of the Crown, and in the case of his immediate predecessor as minister of the interior, ably filling one of the most difficult and responsible positions in the government for a period of over six years, he brought to the throne a knowledge of government gained by a large experience in its routine and minor details, such as is rarely possessed by those called upon to preside over a people. This is not the time to comment upon the occurrences of his reign: but it is not too much to say that history will place his name on the roll of the wisest and best of the kings of Hawaii, and the influence which he has wielded over the people who now mourn his loss will long be felt for their good. Taken away in the meridian of manhood, when his subjects had the right to hope that he would live long to hold the helm of state with a just and even hand, it may well be said that the calamity which has fallen upon them is indeed great and hard to be borne.

At the time of his accession to the throne, his sister, Victoria Kamamalu, was appointed to succeed him in the event of his demise without issue. Princess Victoria died May 29, 1866. Both His late Majesty and Victoria died without issue, neither of them having been married; therefore, the late king not having appointed a successor, and there being no immediate heir in the line of succession as established by the constitution, the throne became vacant at his death. In accordance with the constitutional provisions to meet such a contingency, the cabinet council, immediately after his demise, issued a proclamation convening the legislative assembly on the 8th proximo, whose duty it will be to choose a sovereign from the native aliis of the kingdom.

On Thursday last the remains of His late Majesty lay in state in the throne-room at the palace, and thousands of people mournfully filed through to look for the last time upon him who was yesterday their king.

On Sunday last, both at the morning and evening services at the various churches, sermons were preached suitable to the occasion. Eloquent tributes were paid the memory of His late Majesty, and the people were wisely counseled to observe quiet and moderation during the trying period to elapse before the next sovereign shall be named by the proper authority.

Extract from Hawaiian Gazette, December 18, 1872.

Upon the return of the chancellor of the kingdom from Lahaina, he expressed a desire that the privy councilors should assemble informally at an early day, and, after consultation, his honor, being the oldest councilor, issued the following invitation:

"In view of the great calamity which has overtaken this nation, the chancellor of the kingdom requests the members of the privy council to assemble, informally, at Iolani palace on Monday, December 16, at 12 o'clock noon, to place upon record some suitable expression of their regard for the memory of His late Majesty Kamehameha V, and their appreciation of the great loss which his people have sustained.

"COURT-HOUSE, HONOLULU, *December* 16, 1872."

All the privy councilors known to be in Honolulu assembled, on this invitation, at Iolani palace on Monday, when the chancellor addressed them as follows:

"GENTLEMEN: In view of the overwhelming loss to the nation by the sudden death of our beloved sovereign, and of the sorrow which this mechancholy event has especially caused to us, who have been so long and so intimately associated with His late Majesty 'in the consideration of matters for the good of the state,' I thought it proper, in which the cabinet of His late Majesty concurred, to ask you to assemble informally that we might give such expression of sympathy and sorrow as the melancholy event may naturally suggest.

"In making a request for this meeting, I have assumed no authority, gentlemen, to ask you to assemble as a privy council; but it was the best mode which occurred to me

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of asking the friends of His late Majesty, who have been associated with him in the public councils, to assemble together that they might have opportunity to give such expression as they thought worthy of the occasion, and to place upon record a memorial of the very high appreciation we have always entertained of his wisdom and patriotic devotion as a sovereign and his noble qualities as a man."

Upon the conclusion of the chancellor's remarks the privy councilors, after consultation, unanimously agreed upon the following declaration and resolutions, which shall be signed and presented for record when a new sovereign shall summon a privy council:

"The privy councilors of his late Majesty Kamehameha V, having assembled, after receiving intelligence of his untimely demise, by invitation of the chancellor of the kingdom, are anxious to have placed upon the records of the privy council some expression of their appreciation of their deceased sovereign. Most of them have served the late king during the entire period of his reign, and many of them held a seat in the council during the reign of at least one of his predecessors. They were thus brought in contact with the late sovereign before his accession to the throne, and while he held a most responsible position in the organization of the government.

"They therefore request his honor, the chancellor of the kingdom, whenever any privy council may lawfully be assembled hereafter, to present the following resolutions, and to request that they may be placed upon its records:

"*Resolved*, That the privy councilors here assembled have received with profound sensibility the intelligence of the untimely death of their late sovereign, King Kamehameha V, in the meridian of life, while they were sincerely hoping that his mild reign would have continued for many years to promote the welfare of his people and the dignity and strength of his nation.

"*Resolved*, That we bow with reverence to the inscrutable decrees of Divine Providence, which tempereth all things well, but we cannot be indifferent to the great loss which this kingdom has sustained; that we especially appreciate the moral force, the sagacity and deliberate wisdom, which enabled our late lamented sovereign to uphold with so much dignity the authority of his crown, and the mild spirit which characterized all the sovereigns of the Kamehameha dynasty, and which was largely shared by the last of the line.

"*Resolved*, That we sincerely respect his attachment to the people of his own native race, and the pride with which he contemplated their position among the nations of the earth; the firmness with which he always asserted their independence, and the anxiety for their welfare, which had a controlling influence upon his national policy. Now that he is numbered with his ancestors, we humbly commend the people, who are deprived of a father, to the generous consideration of the whole world, and the guardian care of Almighty God.

"*Resolved*, That in this hour of personal as well as public affliction the privy councilors tender the expression of their profound sympathy to all who were connected with the late sovereign by any ties of kindred or affection, and most especially to Her Excellency Ruth Keelikolani, the sister of the deceased and the last of his immediate family, to whom the chancellor is especially requested to communicate the feelings of the privy councilors in such form as may seem most appropriate in view of her great bereavement."

The following-named privy councilors were present: His honor the chancellor, and the cabinet ministers, Hons. C. Kanania, P. Kanoa, P. Nahaolelua, S. N. Castle, His Highness W. C. Lunalilo, Honorables C. R. Bishop, C. C. Harris, D. Kalakaua, W. P. Kamakau, J. W. Makalena, Godfrey Rhodes, and J. M. Smith.

Immediately upon the announcement of the death of His late Majesty, his excellency the acting minister of foreign affairs addressed the following note to the foreign diplomatic and consular agents resident in Honolulu:

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, December 11, 1872.

SIR: It is with profound grief I inform you that it has pleased Almighty God to call hence my late sovereign, Kamehameha V, at 20 minutes past 10 on the forenoon of this day.

I have the honor to be, sir, your most obedient servant,
FRED. W. HUTCHISON.

Addressed to all the foreign diplomatic and consular agents in Honolulu.

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The following replies have been received:

LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, December 12, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's note of date yesterday, and officially announcing the demise on that morning of His late Majesty Kamehameha the Fifth.

The Government and people of the United States, when informed, Mr. Minister, of the important and melancholy event alluded to, will feel profound regret for and deeply sympathize with the government and people of this country on the great loss now met with.

I offer my sincere condolence to you and your colleagues and the subjects of the realm on this afflicting dispensation of Divine Providence.

I am, sir, very sincerely, your excellency's most obedient servant,

HENRY A. PEIRCE.

His Excellency F. W. HUTCHISON,
Hawaiian Acting Minister of Foreign Affairs.

CONSULAT DE FRANCE À HONOLULU,
Honolulu, le 11 *décembre* 1872.

MONSIEUR LE MINISTRE: J'ai reçu aujourd'hui la notification que vous m'avez fait l'honneur de m'adresser de la mort de sa majesté Kamehameha V.

La nouvelle n'en sera, il est vrai, envoyée en France que par le prochain courrier, mais l'inalterable amitié qui a toujours uni la nation française à la nation hawaienne me fait un devoir de vous transmettre, des à présent, tous les regrets qu'éprouvera de ce fatal événement, le gouvernement de la république française, qui ne manquera, d'ailleurs, point de vous le faire mander en son temps et lieu.

Permettrez moi, monsieur le ministre, de vous exprimer moi-même, dans cette cruelle occasion, mes plus cordiaux sentiments de condolance et de vous dire combien, pour ma part, je m'associe à votre douleur personnelle et au deuil national que supporte, en ce moment le peuple hawaien.

Veuillez à gréer les assurances de le très-haute considération avec laquelle j'ai l'honneur d'être, monsieur le ministre, de votre excellence le très-humble et très-obéissant serviteur,

H. LE MONNYER.

Son Excellence Monsieur HUTCHISON,
Ministre par Intérim des Affaires Étrangères, etc., etc., etc., Honolulu.

H. B. M'S LEGATION AND CONSULATE-GENERAL,
Honolulu, December 11, 1872.

SIR: I have received with unfeigned sorrow your excellency's dispatch of this date, announcing the decease of His late Majesty Kamehameha V.

I shall communicate the melancholy information to Her Majesty's government, and I am assured that the intelligence will be received by Her Majesty Queen Victoria with profound grief.

I have the honor to be, sir, with the highest consideration, your excellency's obedient humble servant,

THEO. H. DAVIES.

His Excellency F. W. HUTCHISON,
Acting Minister for Foreign Affairs, &c., &c.

HONOLULU, *December* 12, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of December 11, announcing the death of His Majesty Kamehameha V, at 20 minutes past 10 on the forenoon of 11th of December.

This sad news has filled me with profound grief, and I beg most respectfully to request your excellency that you will be pleased to express to the members of the royal family my sincere condolence and sympathy in their and the Hawaiian nation's affliction.

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I shall not fail to inform the government of the German Empire, and the kingdoms of Sweden and Norway, of this melancholy event, and beg your excellency to receive the assurance of the respect and consideration with which I have the honor to be your excellency's most obedient servant,

J. C. GLADE,
Acting Consul for the German Empire and the Kingdoms of Sweden and Norway.

His Excellency F. W. HUTCHISON,
Minister of Foreign Affairs ad interim, &c., &c., &c.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN CONSULATE,
At Honolulu, December 13, 1872.

SIR: With deep regret I received your excellency's dispatch informing me of the demise of His late Majesty Kamehameha V, at 20 minutes past 10 o'clock on the 11th instant. I shall not fail to inform the imperial and royal Austro-Hungarian government of this sad event by the first opportunity.

I have the honor to remain your excellency's most obedient, humble servant,

E. HOFFMAN,
Austro-Hungarian Consul.

His Excellency F. W. HUTCHISON,
Acting Minister of Foreign Affairs.

ROYAL CONSOLATO D'ITALIA A HONOLULU,
Honolulu, December 12, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of the 11th instant, informing me of the demise of His Majesty Kamehameha V, yesterday at 20 minutes past 10 o'clock a. m.

I beg most respectfully to join with yourself and all who have the well-being of the Hawaiian nation at heart in the expressions of heartfelt grief at the loss sustained by the early death of the last of the Kamehamehas.

By the first opportunity I shall not fail to inform my government of this sad event.

I have the honor to remain your excellency's most obedient humble servant,

F. H. SCHAEFER, *Consul*

His Excellency FERD. W. HUTCHISON,
Minister of Foreign Affairs ad interim, &c., &c.

CONSULATE OF BELGIUM AND THE NETHERLANDS,
Honolulu, December 12, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of yesterday, by which I received the mournful intelligence of the sudden and unexpected demise of His Majesty King Kamehamaha V.

I beg to assure your excellency of the profound feelings of sympathy and condolence with the royal family and the Hawaiian nation with which this sad event has filled me, and have the honor to remain your excellency's most obedient, humble servant,

F. BANNING.

His Excellency F. W. HUTCHISON,
Acting Minister of Foreign Affairs, &c., &c.

CONSULATE OF DENMARK,
Honolulu, December 12, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of yesterday, December 11, apprising me of the death of His Majesty Kamehameha V at 20 minutes past 10 o'clock.

By first opportunity I shall not fail to inform my government of this sad and melancholy event.

Assuring your excellency of my deep regret and sympathy for the royal family and Hawaiian nation, I have the honor to remain, sir, your excellency's most obedient servant,

C. F. PFLUGER,
Acting Consul.

His Excellency F. W. HUTCHINSON,
Minister of Foreign Affairs, &c.

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CONSULATE OF CHILI,
Honolulu, December 12, 1872.

SIR: It is with feelings of sadness I acknowledge the receipt of your excellency's communication, conveying the mournful intelligence of the decease of His late Majesty Kamehameha V. This afflicting event I will make known to the government I represent. Expressing the deep sympathy I feel with you at the loss this nation has sustained by this bereavement, I have the honor to remain, very respectfully, your most obedient servant,

C. S. BARTOW.

His Excellency F. W. HUTCHISON,
Minister of Foreign Affairs, &c.

VICE-CONSULATE OF RUSSIA,
Honolulu, December 12, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of December 11, announcing that it has pleased Almighty God to call hence your late sovereign, Kamehameha V, at 20 minutes past 10 on the forenoon of the 11th of December.

This sad intelligence has not failed to make the impression of profound grief upon me, and I hereby most respectfully request your excellency to express my feelings of condolence and sympathy for this mournful loss to the members of the royal family.

His Russian Imperial Majesty's government will be informed of this melancholy event by first opportunity.

Renewing the assurance of my profound respect and consideration, I remain,
Your excellency's most obedient servant,

J. W. PFLUGER.

His Excellency FERD. W. HUTCHISON,
Acting Minister of Foreign Affairs, &c.

CONSULATE OF PERU,
Honolulu, December 16, 1872.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of December 11, in which you convey to me the melancholy intelligence of the demise of his late Majesty Kamehameha V.

This sad, and to me unexpected, event has filled me with profound grief, and your excellency will permit me to convey through you to the members of the royal family my expressions of deep sympathy with them in their sad affliction.

I have the honor to subscribe myself, with the highest consideration,
Your most obedient servant,

A. J. CARTWRIGHT,
Consul for Peru.

His Excellency F. W. HUTCHISON,
Acting Minister of Foreign Relations, &c.

[Inclosure 2.—Extract from the Pacific Commercial Advertiser, of Honolulu, of December 17, 1872.]

A PLEBISCITUM.

We issue herewith an address to the nation by Prince William Lunalilo, the heir apparent to the throne of these islands. It is modest, manly, and calm in its tone, and the sentiments expressed must commend themselves to the approval of all. In no more appropriate and acceptable way could the prince have placed his claims before the country. Whatever name may receive the sanction of the popular approval, this action alone of Prince William will stamp his character for unselfish patriotism and high-minded appreciation of the principle that the true source of the governmental power is the consent of the governed.

We speak advisedly when we say that Prince William entertains a deep sense of the responsibilities of the position to which the providence of God has evidently called him; that he prepares (with the will of the Hawaiian people) to assume that position from no ambitious motives, (for he is not a needy prince,) but purely from a sense of duty to his people; and that he is firm in his purpose to avoid in the future the youthful follies and irregularities of the past.

Assured as we are of the justice of the prince's claim to the throne, and believing in his personal abilites and the honesty and sincerity of his professions, we heartily give our adhesion to his cause.

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WILLIAM C. LUNALILO, *son of Kekauluohi, the daughter of Kamehameha I, to the Hawaiian people, greeting:*

Whereas the throne of the kingdom has become vacant by the death of His Majesty Kamehameha V on the 11th of December, 1872, without a successor appointed or proclaimed; and

Whereas it is desirable that the wishes of the Hawaiian people be consulted as to a successor to the throne: therefore,

Notwithstanding that, according to the law of inheritance, I am the rightful heir to the throne, in order to preserve peace, harmony, and good order, I desire to submit the decision of my claim to the voice of the people, to be freely and fairly expressed by a plebiscitum. The only pledge that I deem it necessary to offer to the people is, that I will restore the constitution of Kamehameha III, of happy memory, with only such changes as may be required to adapt it to present laws; and that I will govern the nation according to the principles of that constitution and a liberal constitutional monarchy, which, while it preserves the proper prerogatives of the crown, shall fully maintain the rights and liberties of the people.

To the end proposed I recommend the judges of the different election-districts throughout the islands (hereby appealing to their ancient allegiance to the family of the Kamehamehas) to give notice that a poll will be opened on Wednesday, the 1st day of January, A. D. 1873, at which all male subjects of the kingdom may, by their vote, peaceably and orderly express their free choice for a king of the Hawaiian Islands as successor of Kamehameha V. And that the said officers of the several election-districts do, on a count of the vote, make immediate certified return of the same to the legislative assembly summoned to meet at Honolulu on the 8th day of January, 1873. That if any officer or officers of any election-district shall refuse to act in accordance herewith, or if there shall be a vacancy in said offices in any district, the people may choose others in their places, who may proceed in conformity to law in conducting the election.

Given under my hand at Honolulu, this 16th day of December, 1872.

GOD PROTECT HAWAII NEI.

[Inclosure 3.—Extract from the Pacific Commercial Advertiser of Dec. 31, 1872.]

The following is a fair translation of a circular a few copies of which were seen in the city on Saturday last:

O, my people! My countrymen from old! Arise! This is the voice!

Ho! all ye tribes and divisions! Ho! my own ancient people! The people who took hold and built up the kingdom of the Kamehamehas; from the first blow struck at the water of Keomo, to the complete union of the islands at the sea-beach of Kuloloia, (Honolulu.) Arise! This is the voice!

Ho! maui of Kuimehena the great! Ho! maui of Kamalalawalu; of Kihapiilana also! Ho! Molokai, tall of Hina! Ho! Lanai of Kaulu! Ho! Kanai of Mano, of my ancestors gone! Arise! Turn ye! Here is the voice!

Ho! the relatives of Keaweaheulu, of Kameeiamoku, and Kamanawa, they who met the hardships, the hunger, and the weariness of the spear and the implements of war. Our blood flowed first and our bodies were scarred in the creation of this house, (government,) and the securing of the peace now enjoyed. We created this government.

HERE IS THE VOICE! ARISE AND LISTEN!

At the present time, while the night-watch and the sacred mourning of affection is being held over the corpse of our house-finder, our last lord, the final one of the Kamehamehas, behold the sacred doorstep of Liloa is shaken, the symbolic cord of Ahaula is broken, it is dragged down by the unworthy, it is overthrown and lies face downward; its tabus are trodden on; its sleeping great one, who sleeps the long sleep, his tabus are broken.

Thus, while we are mourning, comes a voice grating on the ear as of a bawling crowd, disturbing the thoughts of the hearer, distracting the mind and attention, and it pours out thus:

"Ho, the Hawaiiaw nation!"

"William C. Lunalilo, the son of Kekauluohi, the daughter of Kamehameha I," &c. A vote to be taken on the first day of January, 1873, for a king for the throne of the Kamahamehas.

Oh, Uli, (thou God!) Regard not this!

It is not *we* who have sprung forward to mock and to treat with contempt the corpse of our beloved king, who now sleeps. It is *those* who treat Thee with contempt, and we bid them farewell forever.

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Let me direct you, my people; do nothing that will be contrary to the law, or that will disturb the peace of our kingdom. Do not go and vote, and do not trammel the labors of your representatives; it will be opposing their authority and powers on the 8th of January, on which day the legislature is to meet and choose a successor to the throne. Don't be led by the foreigners—they had no part in our hardships in gaining the country. Don't be led by their false teachings, as a hog with a string in his nose is led ignorantly along to the oven prepared to cook him.

Stand fast! Stand firm! Be men, and fearless! Give not up your rights and privileges to others. The Kamehamehas are ended; the land, the government, which we labored and strove to create has returned to us.

Be patient and wait, my people, until after the funeral of Kamehameha V, the one absorbing affair before us, our last lord. The land is full of bitterness of grief; the chief are all alike.

For this reason will I be silent and still, but my mind is full of conflicting emotions to see the things that are done in despite of our king. Before his beloved body is out of sight, behold how his bones are mocked. Beware, or the words of the Gospel may apply to us: "They parted my raiment among them, and for my vesture they did cast lots."

I shall not now speak of the senseless things that are now being done, but as you have earnestly pressed me to present my views as to the condition of affairs and for the good of the Hawaiian people; and because I have an ancient right to the throne, from the birth of Keaweikekahialii, over Mani of Kama, Oahu of Kuihewa, down to Kauai of Manokalauipo; therefore,

I ask you to hear to me; I am of the first-born, you are of the second-born, of the same ancestors.

THE PLATFORM OF MY GOVERNMENT!

1. I shall obey the advice of our ancestors, of Keaweaheulu, my grand-father, which he gave to Kamehameha I, to be a rule for his government:

"The old men, the old women, and the children shall lie in safety on the highways."

2. To preserve and to increase the people, so that they shall multiply, and fill the lands with chiefs and common people.

3. To repeal all the personal taxes, about which the people complain.

4. To put native Hawaiians into government offices, so as to pay off the national debt.

5. The amending of the constitution of 1864. The desires of the people will be obtained by a true agreement between the people and the occupant of the throne.

Beware of the constitution of 1852, and the false teachings of the foreigners, who are now grasping to obtain the direction of the government if W. C. Lunalilo ascends the throne. In this way the country narrowly escaped in 1853, shortly after the passage of the constitution of 1852. It was when Kamehameha III was sick that he was urged to sign the transfer of the country to America.

Don't listen to the deceiver!

Don't slight my words!

As we are now in a season of mourning, I am therefore brief, not to tire you, and that you may be sure of the warning of the voice which now echoes on all sides.

After my much lamented lord and father is buried I shall again issue my views, with bravery, and without flinching, and without subserviency.

Let the sound of voices be hushed.

Rest ye, oh people!

The kapu is kept!

Wait until my voice is again raised, and ponder well on what is here said. Ho, ye women, my family, turn ye your husbands, and tell them not to part with the rights of our ancestors, and tell them to be ready when I call again!

In the inspiring words of our ancestors a call to guard well our rights now threatened, then,

Arise, O people!

To the front! Drink the waters of bitterness.

D. KALAKAUA.

HONOLULU, *December* 28, 1872.

[Inclosure 4.—Extract from the Pacific Commercial Advertiser, December, 31, 1872.]

THE PRINCE.

His Royal Highness has spent the past week at his seaside cottage at Waikiki, in the enjoyment of his usual good health. He arrived at his town residence of Haimoeiye yesterday morning, where he remained during the day, receiving business calls, and returning to Waikiki in the evening.

The captains, whose signatures are attached to the accompanying address, assem-

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bled together at the Hawaiian Hotel, at half-past 12 o'clock yesterday, and then proceeded to the city residence of His Royal Highness. The deputation were received with marked cordiality by the prince, who impressed every one present with the apparent excellence of his health, and his dignified, courteous demeanor.

Mr. W. M. Gibson, who, by especial request, had been invited to take part in this expression of congratulation, after a few expressions of lively satisfaction at the prince's fine health and highly gratifying political prospects, read to him the following address:

DEAR PRINCE: We, shipmasters now in the port of Honolulu, being about to proceed on our respective voyages, and wishful before leaving to tender to you an expression of our regard for your person, and of our satisfaction at your well-founded prospect to ascend the throne of your great ancestor, Kamehameha the First, have united cordially in this address of congratulation, in which we beg to mention some of our views and hopes in respect to the interests of this port, to which we hope frequently to resort with the ships under our command; and also in respect to the welfare of this island kingdom, over which we hope to see Your Royal Highness reign.

We fully appreciate that the admirable position and great natural advantages of this port should insure for it a flourishing and constantly increasing commerce; as it shall grow with the growth of the great and enterprising states that bound the east and the west of the Pacific, and should make of it the chief emporium of this great ocean. But in order that this result be brought about, and the future of Honolulu be crowned with the pre-eminent prosperity and glory that should be its due, it will be all-important the freedom of the port be strictly guarded; and that vessels entering it shall not be liable to vexatious, litigious interferences, for any condition of things on board, which does not affect the revenue and police regulations of the country; and in view of this we entertain the hope, and beg to suggest, that the future sovereign of this kingdom shall surround himself with those counsels alone which shall look warily to the prosperity of this port, and to the development of all the material interests of the country.

Your Royal Highness, we have the conviction, derived from experience and observation in our own prosperous country, that happy physical conditions and a widespread material prosperity are the best foundations upon which a Christian or enlightened order may be established; and that the material prosperity of this happily situated archipelago must be greatly promoted by the confidence of ship-owners and the confidence of all others employing here capital and organized labor, so essential to the advancement of the interests of these islands; that their risks and combinations shall not be interfered with for the sake of gratifying an abstract sentiment, inspired, no doubt, by a desire to pander to a political sentiment abroad which disorganizes material interests, being merely mischievous and disturbing in its character, and at the same time makes no provision for the objects of its sympathy.

We hope to see ere long this port, being guarded in its interests by a wise legislation, and which has so often been our favorite recruiting station, crowded with richly-freighted commercial navies, and also to behold a bountiful export of the products of these islands. Such material prosperity we feel will promote increase of people, and the best welfare of the Hawaiian race.

Wishing health and long life to Your Royal Highness, we are your most obedient servants,

JAS. DOWDEN, bark Progress.
F. S. REDFIELD.
ELIAS HEMPSTEAD.
CHAS. HAMILL, bark Midas.
JAS. W. FINCH, ship Georges.
THOS. J. FORBES, J. A. Falkinburg.
P. P. SHEPHERD, D. C. Murray.
F. D. WILKINSON, brig Hesperian.
G. D. RICKMAN, schr. C. M. Ward.
C. A. JOHNSON, ship Syren.

HONOLULU, *December* 30, 1872.

The prince replied:

GENTLEMEN: I am truly pleased to meet you, and happy to receive a kindly congratulation from the representatives of an interest so important to the welfare of this country. I hope to see our commercial relations extended to all nations.

In the event of my occupying the grave and responsible position to which you kindly allude, and to which the favorable wishes of all the people of these islands would seem likely to call me, I shall make it my duty to discriminate fairly in respect to the interests of natives and foreigners, and respect the rights and interests of all.

I thank you cordially, gentlemen, not only for the interest expressed in regard to my person, but in behalf of my weak little country. I hope, in carrying out such views as you express, to advance all its interests and its position before the world.

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[Inclosure 5.—Extract from the Pacific Commercial Advertiser, January 4, 1873.]

THE PRINCE.

The election held in this city on Wednesday last, for a king of the Hawaiian Islands, was conducted in a quiet and orderly manner, and the result has proved that His Royal Highness Prince W. C. Lunalilo is the choice of the people, and their only one. The polls at Adams's auction-rooms were opened promptly at 8 o'clock a. m., and during the whole day the clerks were kept at the top of their speed recording the names of the seemingly endless string of citizens who were eager to deposit their ballots. All of the arrangements were well made and the best of order maintained everywhere. The streets away from the immediate neighborhood of the polls wore an aspect of quiet, intensified by the entire absence of any holiday preparation. At the place of voting everything was animated; speeches were made by several Hawaiians, all of whom possessed a flow of language that was astounding.

At Makee's corner a funny cartoon was displayed, illustrating, in a series of views, the adventures of the "cocoanut cabinet," whom the Rev. Buster has immortalized, and the sketches were largely admired and freely commented upon, especially by residents of Waikiki. At the polls 480 votes were registered the first hour, 2,200 by noon, and when the lists were closed at 5 o'clock p. m. the estimate gave 3,000 as the total number cast in the nine hours.

Our venerated fellow-townsman, Dr. G. P. Judd, left his sick-room to cast his vote for the prince, and he did so amidst the cheers of those who caught a glimpse of his well-known face. The household troops marched in a body to the polls and quietly deposited their ballots; following them was a long procession of Mormons from the other side of the island, and crowds of people from the most distant parts of the district were on hand to have a voice in making a king for themselves. A woman came with the ballot of her sick husband, who did not wish to lose his privilege, but of course his representative could not act for him in this case. Every precaution was taken that none but citizens should vote, and we know of but two cases where illegal votes were offered. At 5 o'clock the polls closed, and the committee proceeded to count the ballots, a task which they completed in an hour. A dense crowd awaited the announcement of the result, which was thus made known to them: There have been three thousand and forty-nine votes cast, all for William C. Lunalilo.

Such a result was entirely unexpected, for even the most sanguine supposed that there would be one or two ballots for some one else. The ballots were all examined carefully by the committee and the lookers-on, and as all of them but seven (which were plainly written, and for the prince) were the printed forms supplied from this office, there could not be any mistake made. Of the voters, 2,768 were Hawaiians, and 281 naturalized foreigners. The total number of males in this district, according to the census of 1866, between the age of 15 and 40, was 3,717, which number will probably fairly represent the number of voters in the district at that date. At the prison a vote was taken, which was unanimous for the prince. At Ewa and Waianae there were 324 votes cast; at Koolauloa, 293; at Koolaupoko, 472; and at Waialua, 172—all for the prince, with the exception of one vote in the district of Waialua. The total for Oahu is 4,309 votes cast for W. C. Lunalilo, and one for D. Kalakaua. We will give the returns from the other islands as fast as they come in.

The remarkable quiet and good order that prevailed during the entire day was due to the people themselves, and to the ready compliance by the liquor-dealers with the request of Marshal Parke that they would keep their places of business closed during the day. We saw and heard of no cases of drunkenness, and on the following morning that there had been no arrests made from any cause during the entire day. This we considered almost as remarkable as the spectacle of an entire population casting their votes without one dissenting voice.

In worthy imitation of the course adopted in New York and other cities of the United States, during the late Presidential election, all the liquor-saloons in this city were closed during Wednesday. There is no law compelling the proprietors to close their doors on any day except Sunday, and we are requested by Marshal Parke to express his acknowledgments to them for the prompt manner in which they complied with the wish communicated to them by him, to suspend altogether their business during the election. The entire day was peculiarly remarkable for the absence of drunkenness on the streets.

[Inclosure 6.—Extracts from The Friend, of Honolulu, January 1, 1873.]

THE FUTURE KING.

There appears to be a general uprising of the Hawaiian people on all parts of the islands, from Hawaii to Niihaw, in favor of His Royal Highness Prince William C. Lunalilo. Mass-meetings have been held at various localities for the purpose of giving expression to public sentiment, and for instructing the representatives how they shall

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vote at the coming meeting of the legislature. By acclamation Prince William is the candidate for the throne. It is peculiarly fortunate, for the peace of the community, that there should be this unanimity in the popular mind. Agreeably to the proclamation of the prince, there will be a gathering of the people to-day, January 1, in all the districts, for the purpose of voting. Although this is not a decisive and binding vote, yet it will more fully indicate the people's mind.

Perhaps our readers abroad may be interested in learning something respecting the position of the incoming sovereign of the Hawaiian Islands. Prince William C. Lunalilo was born January 31, 1835, and is hence thirty-seven years of age. He derives his rank as a chief from his mother, Her Royal Highness Miriama Kekauluohi, who died June 7, 1845. At the time of her death she was premier of the kingdom, having succeeded Kinau, the mother of Kamehameha IV and V. She was a chiefess of the highest rank at the time of her death. Mr. Jarvis, in an obituary notice published in the Polynesian of June 21, 1845, writes thus: "She was the last adult member of that distinguished family which for the past sixty years has, as it were, shared the Hawaiian throne with the kings themselves. Her grandfather, Keeaumoku, was the most noted of all the warriors of Kamehameha I, and by his personal prowess placed that eminent man on the throne of Hawaii; first by slaying with his own hand his great antagonist Kiwalao, and subsequently Keoera, the only remaining enemy on that island." He became chief counselor and executive agent in conducting the affairs of the kingdom. Kekauluohi, his granddaughter, was the mother of Prince William.

According to Hawaiian history, she was betrothed in her youth to Pomare, the King of Tahiti, but his death prevented the union by marriage of the kingdoms of the Hawaiian and Society Islands. She is reported to have been remarkably handsome in her youth, and as having possessed a very tenacious memory, treasuring up the old genealogies of the islands. Our readers will find a good likeness of this chiefess in the fourth volume of "Wilkes's Exploring Expedition," and also in "Anderson's Hawaiian Islands."

Reference to the foregoing facts will account for that deep feeling among Hawaiians for Prince William as their future King in preference over all other candidates. He was educated at the royal school, and we remember him as a bright scholar. He speaks and writes the English language with much ease. Should he succeed to the throne, we earnestly hope and pray that he may enjoy a long and happy reign. Profiting by the successes and errors of the past, we hope the kingdom of Hawaii will now take a new departure in all those elements of prosperity which go to make the people happy and the rulers beloved, fully believing with Solomon that "Righteousness exalteth a nation; but sin is a reproach to any people."

"We the People."—A month ago, when commenting upon President Grant's proclamation setting forth the sentiment that the American Government was the creation of the people, we little imagined that so soon mass-meetings would be held throughout the Hawaiian kingdom to discuss the manner of electing a King, and arguing that all governments are derived from a consent of the people. A new era has dawned upon the Hawaiian nation; an hereditary chief, and one doubtless having the best right to the vacant throne, has made his appeal to the people, thus proclaiming that he deems the voice of the people a better title than a "Divine right" of hereditary descent. Verily the world moves.

[Inclosure 7.—Extract from the Hawaiian Gazette, Honolulu, January 1, 1873.]

Immediately upon receiving the intelligence of the demise of his late most lamented Majesty Kamehameha V, a cabinet council was assembled at Iolani Palace, on Wednesday, December 11, 1872, at 11 o'clock a. m., at which all the members were present, and after considering the provisions of the constitution of the kingdom in such case made and provided, it was—

Ordered, That a meeting of the legislative assembly be caused to be holden at the court-house in Honolulu, on Wednesday, which will be the 8th day of January, A. D. 1873, at 12 o'clock noon; and of this order all members of the legislative assembly will take notice and govern themselves accordingly.

FERD. W. HUTCHISON,
Minister of the Interior.
STEPHEN H. PHILLIPS,
Attorney-General.
ROBERT STIRLING,
Minister of Finance.

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[Inclosure 8.—Extract from the Pacific Commercial Advertiser, January 4, 1873.]

CONSTITUTIONAL OBLIGATIONS.

The situation brings up the somewhat serious question of constitutional allegiance. Great interests hang upon the solution. Events hurry on the decision and the manner of its accomplishment.

Two statements of fundamental law are before the King-elect and the nation, the constitution of 1852, and the decree of 1864. The one, the mutual compact of King and people; the other, the arbitrary proclamation of a chief refusing to enter the constitutional relations of former kings; the one, the binding law of the land, the other a fraud, and only existing by force. The King-elect by his manifesto has announced his position in the clearest terms: "I will restore the constitution of Kamehameha III." The people in their own assemblies and at the polls have as positively expressed themselves in favor of their own constitution, which they have believed in and which they have never given up nor abrogated.

In these circumstances, the Hawaiian Gazette has produced this week a labored article entitled "Constitutional government," which reads more like a strained judicial opinion than an editorial. It is illogical, and its argument is unintelligible, save upon one basis, and that is the writer's unqualified belief in the legality of the decree of 1864. It is a flat-footed and hearty support of that extraordinary document, and against the claims of the old constitution. The writer would seem to be a devout believer in the adage "whatever is, is right," and because the prevailing sentiment in favor of a policy promising a better state of things may possibly introduce elements of danger or expense, he would make a virtue of extreme prudence and support the present state of things. Doubtless if the present King-elect should abolish all former constitutions and decree a new one, this commentator on fundamental law would, after things were running smoothly again, be able to swallow his scruples and write learnedly upon the disadvantages of permanent constitutions.

The idea that the late King might legally trample upon that constitution which established the manner and method of his succession to the throne because it did not say in actual words what it unmistakably expressed in the general sentiment of its section, is indeed worthy of that political intuition which says that "the present constitution is made binding on the successors of Kamehameha V by its express terms, so that no one can become the constitutional sovereign until he has sworn to support this constitution;" as if the support and assistance of the late decree were of any importance to the King-elect. How can the provisions of an illegal and revolutionary proclamation of a former King, now dead, give validity and strength to a new reign?

The King-elect has, by guaranteeing the restoration of the constitution of 1852, announced his disapproval of the decree of 1864. It is to be expected that he will abide by his promise, either literally or in substance, and under the present political circumstances, and with the meaning of the national decision at the polls of the 1st of January, it would be disloyal as well as indecent to urge or expect him to do otherwise.

The sensitive conscientiousness of the Gazette writer, in regard to the observance of oaths, would be highly honorable in him if he had expressed a similar feeling toward the oaths which were solemnly sworn to protect the constitution of 1852. What made it proper that they should be broken freely in 1864? Was it the decree of that date? Did that give absolution?

The only pretense of an argument for the legality of the decree is in the existence of a few official oaths, and in the fact that "it was so far acquiesced in that no resistance was made to it, and laws, elections, and the whole administration of the government have since gone along under its provisions;" but chiefly in the obsolete and decayed creed of the divine right of kings. It is well known that the people have never acquiesced in the acts of Kamehameha V on taking the throne; and that their almost unanimous feeling, from that day to this, partially smothered though it may have been, has been a strong and unceasing protest against those acts.

Kamehameha V, in taking the throne, had but one condition requisite by the constitution, the one of blood; he was not appointed and proclaimed by the reigning King and the House of Nobles as the successor to the throne; he was not chosen as such successor by the House of Nobles and the House of Representatives in joint ballot. Thus, by the argument of the Gazette, his acts in taking the throne and promulgating his decree in place of the constitution were "illegal, unconstitutional, and void," and were so with far greater force than could be the act of the King-elect in recognizing a rightful constitution, which has never been interfered with save by such unlawful proceedings, even though it has been set aside for nine years.

The Gazette leader is an industrious attempt to sustain and give an appearance of right to a false position, and it fails not for want of ability in the writer, but because he attempts what is logically and morally impossible. A weak application of the doctrine of expediency shows from beginning to end. It is a feeble endeavor to prove that a wrong may be righted by continuing it.

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From a common sense, straightforward view of present circumstances, it does not appear that the King-elect will really need any validity for his acts which the provisions of the late King's decree might give him. What does the voice of the people mean, which on the first of January rung out an overwhelming call to Lunalilo, King-elect of the nation, by its unanimous acclamation from Hawaii to Neiihaw? Does this give no legitimacy? Then where will you look for it? In the present crisis, if authority comes not from the people, where, in the name of justice and right, does it come from? From the decree of 1864? Heaven forbid! If the King-elect and the people who elected him shall unitedly decide to restore their old, much-wronged bill of rights, and thus to rebuke the dangerous and revolutionary acts of the last reign, we do not know how their acts under this policy could be made stronger, juster, or more really legitimate. Can the election of the first of January be called invalid, or its results be doubted? The judges of election were selected by the people themselves. Who shall distrust or find fault if the people do not? The nation sat in committee of the whole, and there the important vote took place that makes William C. Lunalilo King. The legislature will of course follow the direct vote of the people by way of formal ratification, and this they do without affecting their obligations to the decree of 1864.

The fear expressed in the article under review that if the constitution of 1852 should be restored "there would be no one who could legally enforce it," must be founded chiefly in the writer's remarkable veneration for the decree which overrode it. Cannot the King-elect enforce it, and if not, why not? If a feeling of conscientious obligation to the acts of the late reign should necessitate a resignation on the part of present officials, what shall prevent the King from immediately issuing commissions making new ones, and who shall say that such commissions are not valid or that such new officials would not be duly authorized? As to the statute laws that have been enacted during the years that have elapsed since the suspension of the constitution in 1864, one single statute passed by the legislature will legalize them all.

The temporizing policy of the Gazette leader has too long been the bane of our politics. The inconsistency of the argument exposes itself in the positive avoidance of any discussion of the question on its merits, the only true basis of judging any and every question under the sun. Not a single fundamental principle is brought forward. Departure from the decree of 1864 is condemned as "fraught with peril to the liberties of the people," as if by the enforcement of that decree more liberties of the people were not lost than by all other influences together since their government was established.

The nation is wearied of the late régime, and has not and will not ratify its principles. The King-elect has publicly acknowledged the liberal idea of government by the consent of the governed, and the people in response have rallied with unprecedented enthusiasm and made the principle their national policy and its princely supporter their King. And now any support of the policy of the past reign is out of sympathy both with popular sentiment and political morality and justice.

No. 228.

Mr. Peirce to Mr. Fish.

[Extract.]

No. 182.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 10, 1873. (Received March 3.)

SIR: * * * * * * * *

The assembly, thirteen nobles and twenty-eight representatives, met at noon of the 8th. Captain Clary and myself and other foreign representatives were present as spectators by invitation.

Inclosed herewith, marked No. 1, is an extra of the Pacific Commercial Advertiser, giving a full account of the doings of the assembly, by which you will see that His Royal Highness William Charles Lunalilo was unanimously elected by them sovereign of the Hawaiian Islands, and thereby confirming the unanimous choice of the people previously expressed.

* * * * * * * *

The peace and good order which the people have exhibited through-

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out this exciting canvass for the election of a King speak volumes of praise in their behalf, and as showing the results of Puritan and republican teachings and education of the masses.

Yesterday, the 9th instant, at noon, according to arrangements previously made, Lunalilo took the oath of office as King of the Hawaiian Islands. He retains that name (Lunalilo) as his kingly title, the Kamehameha dynasty having ended by death of the late King. The new ministry will probably be announced soon.

Inclosed herewith, marked No. 2, is the Hawaiian Gazette extra of January 9th, containing a full account of the ceremonies installing Lunalilo sovereign of the realm.

Captain Clary deserves much praise for the cordial and handsome manner in which he co-operated to render the occasion alluded to impressive and complimentary, by causing a large number of his officers to accompany him to the church, (in full dress,) and by furnishing all the marines of the ship for performance of military duty on shore on that day, by invitation from the governor.

The King elect has forsworn the use hereafter of intoxicating drinks, and it is hoped and believed he will remain faithful thereto. No King ever appeared to better advantage than he did yesterday. He is well educated, of fine manners, and possesses a kind heart. Americans and American missionaries are delighted at Lunalilo's accession to the throne, as he is partial to our people, and has ever looked upon them as his best and most sincere friends. In religion he is a Congregationalist, in politics democratic, though from necessity now a constitutional monarch.

With great respect,

HENRY A. PEIRCE.

[Inclosure 1.—Pacific Commercial Advertiser extra, January 8, 1873.]

MEETING OF THE ASSEMBLY—ELECTION OF PRINCE LUNALILO AS KING—IMMENSE ENTHUSIASM.

In accordance with the order of the cabinet ministers, the legislature met in the assembly chambers at 12 o'clock, noon, on Wednesday, January 8. During the whole of the morning the excitement in the street was kept up, and a large number of stores bore on their front large placards such as, "Long live William C. Lunalilo, our King;" "Lunalilo, the People's King;" "W. C. Lunalilo, the King of Hearts." Speeches were made by stump orators, and knots of enthusiastic Hawaiians cheered lustily for the prince.

Long before the hour for the opening of the house, the population of the town began to move down to the neighborhood of the court-house, and by 12 o'clock there was a dense crowd in front and around the approaches to the building, while up the stairs the lobby was jammed full of anxious spectators by 11 o'clock.

On the arrival of the prince, at 5 minutes before 12, the immense crowd outside the building sent up long and loud cheers, that spoke their loyal aspirations for the coming King. On his entrance into the hall, and taking his seat among the nobles, although the audience had been cautioned against making any demonstrations, every one, including the members, rose to their feet, and three rousing cheers were given for the prince, the people's choice. The prince was looking in excellent health, and bowed repeatedly and with dignity in response to the marked demonstrations in his favor.

At noon precisely the president called the legislature to order, and after prayer by the Rev. A. Pali, the roll was called, and all were reported present but Hon. Mr. Kapakee (dead) and M. Kahananui. On motion of Hon. Mr. Carter, the house proceeded to ballot for acting clerk in place of Mr. Stanley, absent. Mr. H. Macfarlane was declared duly elected acting clerk—27 votes.

The certificate of the election of Hon. Mr. Nahinu, from S. Kona, in place of J. W. Kapakee, was referred to the committee on judiciary, with instructions to report immediately. The committee reported favorably, the report adopted, and the member-elect from S. Kona was duly sworn in.

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The following is a list of the members of the legislative assembly:

NOBLES.—His Royal Highness W. C. Lunalilo; their excellencies, P. Nahaolelua, P. Kanoa, J. O. Domsnis; the Hons. C. Kanania, C. R. Bishop, P. Y. Kaeo, W. P. Kamakau, H. A. Kahanu, D. Kalakaua; their excellencies F. W. Hutchison, S. H. Phillips, R. Sterling.

REPRESENTATIVES.—Messrs. D. H. Hitchcock, S. Kipi, J. Nawahi, W. T. Martin, D. H. Nahinu, S. K. Kaai, J. W. Naihe, G. W. D. Halemanu, L. Aholo, W. Hanaike, J. A. Kaukau, H. Kinhelani, J. W. Lonoaea, P. Nui, M. Kahananui, D. W. Kaiue, R. Newton, A. F. Judd, J. O. Carter, Z. Poli, E. Mikalemi, J. Komoikehuehu, J. N. Paikuli, E. Kekoa, C. H. Judd, D. Kaukaha, W. H. Rice, J. H. Kapuaiai.

All the members appended their names to the back of their ballots excepting the Hon. Messrs, Kanoa, Bishop, and Kanaina.

Members absent: His Royal Highness William C. Lunalilo, Governor Dominies, Hon. D. Kalakaua, and Kahananui.

His excellency the attorney-general then read the following statement by the cabinet:

Mr. President, Nobles, and Representatives:

Documents delivered to your president contain official evidence of the decease of His late Majesty Kamehameha V. His earthly existence terminated at Iolani Palace, in Honolulu, in the Island of Oahu, upon the forty-second anniversary of his birth, being the eleventh day of December, in the year of our Lord one thousand eight hundred and seventy-two.

His late Majesty left no heirs.

Her late Royal Highness the Princess Victoria Kamamalu Kaahumanu, to whom in the event of the death of His late Majesty without heirs the constitution declared that the throne should descend, died, also without heirs, on the twenty-ninth day of May, in the year of our Lord one thousand eight hundred and sixty-six.

His late Majesty did not appoint any successor in the mode set forth in the constitution, with the consent of the nobles, or make proclamation thereof during his life. There having been no such appointment or proclamation, the throne became vacant, and the cabinet council immediately thereupon considered the form of the constitution in such case made and provided, and

Ordered, That a meeting of the legislative assembly be caused to be holden at the court-house in Honolulu, on Wednesday, which will be the eighth day of January, A. D. 1873, at 12 o'clock noon, and of this order all members of the legislative assembly will take notice and govern themselves accordingly.

By virtue of this order you have been assembled to elect, by ballot, some native alii of this kingdom as successor to the throne. Your present authority is limited to this duty; but the newly elected sovereign may require your services after his accession.

The members of the cabinet devoutly ask the blessings of Heaven upon your deliberations and public acts. They have appreciated the responsibility resting upon them, and have striven to maintain tranquillity and order, and especially to guard your proceedings against improper interference.

Acknowledging the obligation to preserve all the rights, honors, and dignities appertaining to the throne, and to transmit them unimpaired to a new sovereign, it will become their duty, upon his accession, to surrender to him the authority conferred upon them by his late lamented predecessor.

FERD. W. HUTCHISON,
Minister of the Interior.
STEPHEN H. PHILLIPS,
Attorney-General.
ROBERT STIRLING,
Minister of Finance.

The address was accepted and ordered on file, together with the accompanying documents.

On motion, the house then proceeded to take up the main business of the session, the election of a successor to the throne, by ballot.

Each member upon taking his seat found the following circular upon his desk, accompanied with a neat ballot for the prince:

NOBLES AND REPRESENTATIVES: The voice of the people has instructed you to vote for the King they have chosen! More than ten thousand Hawaiians on the first of January said that *Prince Lunalilo* should be that King. Now the people hear that you have been asked to sell your vote to drown their voices. Show them to-day that you are true! Make *Prince Lunalilo* our King to-day!

Let every member write his name on his ballot, so that we may know that you are not traitors to the people, who ask that *Lunalilo* should be their King!

THE PEOPLE.

HONOLULU, *January* 8, 1873.

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Hon. Mr. Kaai introduced a resolution to the effect that each member write his name on the back of his ballot. After some debate the resolution was adopted, and the members proceeded to ballot. All of the members present, as well as the cabinet, voted. While the tellers were calling the ballots, and reading the names of the members on the back, the greatest interest was evident in the audience. The people outside got the news as soon as a majority was reached, and the cheering was tremendous. At half-past 1 the vote was declared unanimous for Prince William C. Lunalilo. The news was received with enthusiastic cheering and shouts of applause. A committee of five, consisting of his excellency Governor Nahaolelua and Hon. Messrs. Martin, Bishop, A. F. Judd, and Naihes, were ordered to wait upon the King-elect and announce to him the result. The house then took a recess of half an hour.

House met again at 2 o'clock, and the report of the committee was read and accepted.

Hon. A. F. Judd moved that the secretary prepare an official announcement of the result of the election, and also a notice that the sovereign-elect will take the oath of allegiance at Kawaiahao church to-morrow at 12 o'clock noon.

Hon. Messrs. Bishop and Aholo presented resolutions of condolence to Ruth Keelikolani, the sister of the late King, which were adopted.

Upon motion, the house adjourned until to-morrow at 11 o'clock.

The following is the official announcement of the result, ordered by the assembly to be published:

To all to whom these presents shall come, greeting:

Know ye that the legislative assembly of the Hawaiian Islands has on this the 8th day of January, A. D. 1873, unanimously elected His Royal Highness Prince William Charles Lunalilo King of the Hawaiian Islands, and that he will be pleased to take the oath of office at 12 o'clock m. on Thursday, the 9th instant, at Kawaiahao church, in the city of Honolulu.

By order of the legislative assembly.

H. MACFARLANE,
Secretary.

After the election of the King had been declared in the assembly, the immense concourse of people assembled in the court-house yard and in the street adjoining, remained anxiously waiting for a sight of their new King. In a few moments His Majesty appeared on the balcony, accompanied by the chancellor, when the cheers were deafening. The King addressed a few words to the eagerly-listening people, in which he thanked them heartily for the spontaneous expression of their loyalty and good will, and distinctly acknowledged his indebtedness to the people for the exalted position which he had just attained as their King. He added, that to-morrow he would address them more fully at Kawaiahao church, on the occasion of taking the oath of office. He then bowed and retired, amid the wildest cheers of the excited populace. Several carriages were in waiting to convey His Majesty to the palace, but he signified his pleasure to walk thither, and so, in most democratic style, the people's King, accompanied by the chancellor, proceeded on foot to the palace, followed by crowds that thronged the street, and cheered as they marched.

God save the King!

ILLUMINATION.

We hear that it is proposed to illuminate the town this evening, and have a torchlight procession in honor of the great event of the day, the election of King of Hawaiinei.

[Inclosure 2.—Hawaiian Gazette Extra, January 9, 1873.]

His Majesty the King, in accordance with the announcement made yesterday, after his unanimous election as sovereign of this kingdom by the legislative assembly, in conformity with the constitution, took the oath of office prescribed at the Kawaiahao church, at 12 m. this day.

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At an early hour in the morning every available seat in the church, with the exception of those reserved for the alliis of the kingdom, the diplomatic and consular corps, and the captain and officers of the United States steamer Benicia, now in port, were occupied. The number of people in the church amounted to over two thousand, and the yard and King street far beyond the palace-gates were crowded with people, Hawaiian and foreign, who were unable to obtain entrance.

The Hawaiian cavalry, under command of Major Judd, were placed in line outside of the entrance to the church-yard; the household troops, under command of Major Mochonua; the marine corps of the United States steamer Benicia, under command of Lieutenant Ellsworth, U. S. N.; the artillery, under command of Captain Brown, and the Honolulu rifles, under command of Captain Gulick, being drawn up in line from the entrance of the yard to the steps leading into the church.

His Majesty's approach was heralded to those inside the church by the cheering of the great throng without; and when he entered the church, attended by the chancellor of the kingdom, the cabinet ministers of His late Majesty, and the members of the staff, the assemblage rose to their feet, saluting him most enthusiastically, to which he graciously returned his recognition. Proceeding through the main aisle of the church, escorted as above, to the platform erected for the purpose, His Majesty was seated, when the proclamation of the president of the legislative assembly announcing his election as sovereign was read in Hawaiian by Colonel the honorable D. Kalakana, and by his honor the chancellor of the kingdom in English. His honor the chancellor of the kingdom then administered to His Majesty the oath of office prescribed by the constitution, when His Majesty was pleased to address the nobles and representatives, in Hawaiian and English, as follows:

NOBLES AND REPRESENTATIVES: This is the first time in this history of this kingdom that the legislative assembly has been convened for the purpose of electing a sovereign, and I tender you my thanks for the cordial unanimity and good will which have characterized your proceedings. But before adverting to any considerations of duty or responsibility, it is becoming, as well as in accordance with the promptings of our hearts, to express our sorrow at the sudden death of the illustrious chief whose successor I am. The late King had decided traits of character. He was enterprising, labored to develop the resources of the country, and extended his protecting hand to the Hawaiian people. While he was just to all his subjects, he was very naturally sensitive to the rights of the Hawaiians and desirous of promoting every project which would advance their interests and increase their numbers.

I sympathized deeply with the late King on the subject of the gradual diminution of the people, and I need no assurances from you that all reasonable measures to prevent it will meet your cordial approval. While we mourn this sudden bereavement, let us learn from his illustrious example to be faithful and true to the independence of the kingdom and anxious only to promote the general good.

This nation presents the most interesting example in history of the cordial co-operation of the native and foreign races in the administration of its government, and most happily, too, in all the relations in life there exists a feeling which every good man will strive to promote.

Government may be said to enter upon a new era on the accession to the throne of every sovereign. It will be my earnest endeavor to sustain the character of the government in its good repute with other nations, and in this connection it becomes us to cherish a cordial recollection of my lamented predecessors, as well as of the disinterested and patriotic men who aided them in enrolling this kingdom among the family of nations. It will be my endeavor, and in this I shall have the aid of all men who are true friends of the Hawaiians, to sustain the character of the government transmitted to us. The commencement of my reign is auspicious. Our relations with foreign governments are of the most friendly character, and I am satisfied will continue so if we faithfully discharge our duty in conformity to the principles of justice and comity recognized among nations.

At home there is peace and a reasonable prosperity, which it will be my earnest endeavor to promote.

The islands are capable of a far higher improvement than they have ever enjoyed. They have capacity enough to make a kingdom which shall command the respect of other nations, as well as to give greater comfort and happiness to a far larger population.

We are fortunately placed by nature on the great ocean highway of nations; the commerce of all flags should be attracted hither by the safety of our harbors, our abundant products, and the liberal laws and regulations of our ports. All legislation in the future, having in view the proper protection and promotion of our commercial relations, shall meet my hearty concurrence and approval.

There are circumstances attending my accession which arouse within me a very lively sense of gratitude to the whole people. They have tendered me their loyalty and their cordial support, and I accept the trust imposed upon me, feeling confidence in the expression so spontaneously made.

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May the blessing of our heavenly Father, without which there can be no permanent success, attend our efforts to promote the best interests of the government and people.

His Majesty then addressed the assemblage as follows:

To the Hawaiian people:

Soon after the death of His Majesty Kamehameha V, whose loss the nation mourns' I issued an address to the people in which I stated that the throne had become vacant, and without a successor appointed or proclaimed, and that I desired to submit my claim to their consideration and suffrages. At numerous meetings held throughout the islands they have made known their views in a way most complimentary to myself and the election by the legislative assembly is in response to the popular will.

I need not assure you that my heart is filled with gratitude for this generous expression favorable to my claims, and I need not assure you that it will stimulate me to do everything in my power to promote your improvement, your interests, and your happiness. But to accomplish these purposes I must have your determined co-operation. From this day I hope to see an increased effort on the part of all the people to make themselves independent. History plainly teaches that no nation can improve in population and wealth without industry and good morals. It is a fact, which oppresses my heart, that the Hawaiian population has been gradually diminishing for years, and I appeal to every Hawaiian, whether here or at his quiet home, to arise in full strength and stay this desolation. It can be done, but it will require the efforts of all who love Hawaiinei. Industry, temperance, and virtue, with a moral and religious education, will accomplish it. Abandon all slothful habits, and strive for that standard of improvement which gives such advance to other nations.

In my address I alluded to some constitutional amendments, which could properly and usefully be made. I shall take a legal course to accomplish this purpose.

It is evident that the popular expression so recently made, has drawn King and people nearer together. We know now that we sympathize in sentiment and opinion, and that we are in earnest and in mutual accord for the common good.

While my government is a constitutional monarchy, it is an auspicious circumstance that the popular will is in accord with the legal bestowment of the crown. It promises a harmonious administration of public affairs, which will give ample protection to all men, and secure to them the enjoyment of liberty regulated by law, which is the greatest blessing which government can bestow.

After taking the oath of office, as well as after the delivery of his addresses, His Majesty was greeted with applause by the assemblage present.

Upon His Majesty's departure, escorted by the staff and high officials of the government, he was again enthusiastically saluted both inside and outside of the church. It will be observed that His Majesty walked to and from the church on the occasion of publicly assuming the high and responsible position to which he has been called.

No. 229.

Mr. Peirce to Mr. Fish.

No. 183.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 13, 1873. (Received March 3.)

SIR: The funeral of his late Majesty Kamehameha V, took place with imposing ceremonies on the 11th instant.

Inclosed herewith is a printed programme of the order of procession.

Capt. A. G. Clary, eighteen officers, and twenty-five marines, all of the United States steamer Benicia, formed part of the funeral cortege, and contributed much to make the occasion impressive.

The late King undoubtedly died from the effects of excessive obesity, inducing congestion of the brain and lungs. His weight was supposed to be three hundred and fifty pounds.

I inclose herewith an excellent photographic likeness of King Lunalilo, who succeeds to the Hawaiian throne; inaugurated January 9, 1873. He is unmarried. Being the stirp of a new dynasty, he will probably marry soon.

With great respect, &c.,

HENRY A. PEIRCE.

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No. 230.

Mr. Peirce to Mr. Fish.

No. 184.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, January 15, 1873. (Received March 3.)

SIR: The following ministerial appointments are officially made known by the King: Charles R. Bishop, foreign affairs; E. O. Hall, interior; R. Stirling, finance; A. F. Judd, attorney-general.

All the above persons are of American parentage, except Mr. Stirling, who is a Scotchman. They are men of high character and ability, and will give strength to the new government. I inclose herewith some interesting articles on political matters here, extracted from the Pacific Commercial Advertiser of January 11.

One refers to the danger which existed, on the day of election of a King, (8th instant,) of outbreak and disorder; the people being secretly armed, and determined to make Lunalilo King, by force if necessary.

Happily for the peace of the community the latter was elected by the assembly; and the country now reposes in serenity and content, and with confidence in the future.

With great respect, &c.,

HENRY A. PEIRCE.

[Inclosure 1.—Extract from the Pacific Commercial Advertiser, January 11, 1873.]

Lunalilo is King. The will of the people has so far triumphed, and we hope and believe that the nation has entered upon the career of prosperity which the perfect accord of King and people should inaugurate. This journal, in advocating the claims of the prince who has now succeeded to the throne, only gave that expression of the popular will of which it aims to be the exponent, and in now alluding to the subject of the cabinet of the new King, we do not assume or pretend to dictate any persons for the high offices of administration, but we are confident we still reflect the popular hopes and desires when we assert that the people hope that "old things are passed away;" that a new King means a new *régime*.

We have no desire to refer to the dreary past of official incapacity and "ring" government, except to draw needed lessons for the future.

The tendency of government is very strong in all small countries to degenerate into rings; centralism is their bane. After the offices have been gathered within a few hands, it is difficult to resist the temptation to use the favor and patronage of office for private ends. A cabinet minister's office should never be the basis of operations for commercial, financial, or real-estate speculations.

Among the names which have been prominent in our community for cabinet positions the last few days, are some which have been too frequently known in connection with such operations to promise well for the impartial fulfillment of the duties of cabinet officers.

The public hope that one of the first steps of the new administration will be to procure the necessary supplies for public institutions by open and fair means, so that through competition in the open market the government will be more economically and fairly served, and the benefits of its patronage not be reserved to a few ministerial favorites. Nor when tenders are to be called for should a minister or his subordinates give such previous information of government needs as will enable friends to monopolize the needed articles to the loss of the government, even if they have no direct pecuniary interest in the profits derived. Ministers should keep themselves above suspicion.

Rival interests will force their claims upon our new King; especially will a false conservatism urge, so far as possible, a continuance of the old order of things in the tone if not in the *personnel* of the new cabinet; but we trust that our new King will rightly interpret the enthusiasm which has greeted his accession to the throne as the uprising of a people desirous of ridding themselves and their country of the incubus of an administration selfish in its motives and detrimental to the national prosperity in its policy.

The people trust that their new King will seek for councilors, not in the tailings of

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the old administration, but in the pure metal of a new lead, and that he will avoid, too, a patch-work cabinet, where new metal will be basely alloyed by the old.

All our exultation is in our hopes for the future, not in our memories of the near past.

Very thoughtful and appropriate were the words that fell from the lips of a distinguished personage on the evening of Wednesday last: "Let all good men fervently thank God for the peaceable conclusion of this day's proceedings." There was, indeed, great cause for thankfulness—greater cause than the foreign public is generally aware of. The remark was frequently heard previous to that day, that the native people would not be likely to submit quietly to the election of any one as King other than the man whom they had unanimously chosen on New Year's day; but there is ample proof (and now that the matter is safely settled it is well to say so) that the people were determined, when they went down to the court-house on Wednesday last, that Lunalilo should be King before the assembly rose that day, andthat they were secretly armed, and prepared to make him King by force, if necessary. At half-past 12 the slightest spark would have served to set ablaze the passions of the populace that surrounded the court-house, and the possible consequences are fearful to contemplate. When we are aware of the depths to which their minds were stirred during the uncertainty that hung about the result, we can well understand the unbounded joy and enthusiasm of the people when they knew for a certainty that the assembly was unanimous for Lunalilo. Let us all, then, thank God for the peaceable conclusion.

After the election of the King had been declared in the assembly, the immense concourse of people assembled in the court-house yard and in the street adjoining remained anxiously waiting for a sight of their new King. In a few moments His Majesty appeared on the balcony, accompanied by the chancellor, when the cheers were deafening. The King addressed a few words to the eagerly-listening people, in which he thanked them heartily for the spontaneous expression of their loyalty and good-will, and distinctly acknowledged his indebtedness to the people for the exalted position he had just attained as their King. He added that to-morrow he would address them more fully at Kawaiahao church, on the occasion of taking the oath of office. He then bowed and retired, amid the wildest cheers of the excited populace. Several carriages were in waiting to convey His Majesty to the palace, but he signified his pleasure to walk thither, and so in most democratic style the people's King, accompanied by the chancellor, proceeded on foot to the palace, followed by crowds that thronged the street and cheered as they marched.

Never was there seen such universal rejoicing over a glorious result. Men were seen running about, half frantic with pleasurable excitement, shaking hands vigorously with everybody they met. No previous notice of a night celebration had been given, but in the evening numerous houses in the city were brilliantly illuminated, prominent among which was the post-office. The members of the German club, with many volunteers, and preceded by the military band, marched in torch-light procession through the principal streets.

God save our King, the people's choice.

[Inclosure 2.—Extract from the Pacific Commercial Advertiser of Honolulu.]

The week that ends to-day will ever be a memorable one in the history of these islands, and from the date of the election by the people through their representatives of a King a new era dawns upon the nation and the land.

The three great events in the written history of the Hawaiian Islands are, first, the arrival of the first missionaries of the gospel in 1820, and the almost immediate adoption of Christianity as the religion of the nation; second, the act of 1840, when Kamehameha III gave a constitutional form to the government; and, third and last, the call for a *plebiscitum* by the Prince Lunalilo on the 16th day of December last, whereby he freely surrendered his right, held divine by monarchies heretofore, to the arbitration of the people, and established the supremacy of their will.

In the progress of events that have culminated in these three great epochs there have been many striking illustrations of the truth of the saying that all things work together harmoniously in the hands of that Divine Power which we believe to extend its protection to these islands of the sea, as well as the great continents of the earth.

If we trace back the events that led to the adoption of Christianity as the religion of this people, we find that they had unconsciously prepared themselves for the light of the gospel by proving for themselves the utter falsity of the teachings of their idolatrous priests.

So, when, in 1840, Kamehameha III gave the people a constitution, it was in accordance with the march of events that made such a step a necessity on his part, conse-

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quent upon the growing cares of a state that had outstripped his capacity for governing absolutely.

Lastly, the circumstances that led to the expression by the people on the 1st of January of their wishes, in the light with which we view them now, have been the very ones most needed to bring about the result obtained. In the giving of a bill of rights to the people, in the first place, their intelligence and growing capacity for self-government was recognized, and in 1852 the development of that capacity was still further acknowledged by the amplifying of that bill of rights into a constitution.

This last solemn compact between the King, the nobles, and the representatives was necessarily defective, as it endeavored in some of its provisions to adapt certain clauses found in older instruments of the kind to the exigencies of a new state and a peculiar people. This country found itself with a constitution while still hampered with remembrances, traditions, and usages which were the relics of a barbarism from which it had but recently emerged.

It can hardly be said that the clauses that have been objectionable in the constitution of 1852 were all bad in themselves, but rather that those conditions were enforced upon a people who could not fully appreciate the moral responsibility that rested upon them of viewing those provisions from the highest moral stand-point. As it stands, it is a "constitution," *i. e.*, a compact between the people and their King, and as such never having been formally abrogated, must command attention at this time.

The decree that has been paramount for the last nine years has served one good purpose. It has exposed to the people the danger of a "little knowledge," and has caused them to think more and deeply of what is due themselves than ever before. It has shown them the reverse of a medal which, as children, they never cared to see as long as the face was glittering and fair.

We believe that the people fully appreciate the responsibilities they have taken upon themselves in choosing their King, and that they will be able to consider and direct intelligently all legislation that may be needed to secure for their King and themselves a constitution that will stand the test of time and the onward march of human progress.

Our correspondent, who signs himself with * *, writes very sensibly in respect to what can be done by our next King in regard to the future constitutional status of the country. We have the assurance from the King-elect, in his manifesto, that he will govern his people constitutionally, and it is not to be presumed that he intends to dictate where he has expressly stated he should seek advice. We cannot see that any reference to the supreme court of this matter would be in accordance with the wishes of the King or the people, all the more that that body, in common with all the other judicial, legislative, and executive departments of the kingdom, "derive," as our correspondent remarks, "all their powers from the constitution of 1864." And it is this very fact that has so decidedly prejudiced the *people* and their chosen chief against that document, inasmuch as they had no voice in its construction.

Our correspondent asks, "What possible excuse is there for revolutionary measures and possible disorder now?" We know of but one, and that can be afforded only by those who would be glad to see the voice of the people nullified by the vote of the legislature. We agree with our correspondent when he says that greater economy should be practiced in every department, and when the proper time comes we can add not a few to the list of useless offices and appointments, now on the military and civil lists, that he gives us in his communication.

[Inclosure 3.—Extract from the Pacific Commercial Advertiser, January 11, 1873.]

THE ACCESSION TO THE THRONE.

At an early hour on Thursday morning the streets were alive with sight-seers, and members of the various military organizations who were to take part in the ceremonies attendant upon the taking of the oath to the constitution by King Lunalilo.

As the morning advanced the soldiers were marched to their stations at the entrance to the grounds of Kawaiahao church, where the ceremony was to take place. The Hawaiian cavalry formed in line outside of the gate, and the other troops were ranged from the gate to the church on the left of the entrance. On the right of the line were the household troops, next to them was the marine corps of the United States sloop-of-war Benicia, then came the Honolulu rifles, and the left of the line was occupied by the artillery company. A dense throng lined the passage-way to the church, and the huge building itself was filled completely with the population of Honolulu. The pulpit had been removed and in its stead a broad platform had been built, upon which

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was arranged a table supporting the Bible, and a throne-chair covered with the royal mantle of golden feathers. The standard of Hawaii was displayed on either side and in the rear of the platform. On either side of the chair of state were the supporters, clothed in feather capes, and bearing the royal kahilis of slate-colored feathers. The seats nearest the platform were occupied by the members of the legislature, foreign representatives, and the officers of the Benicia. Queen Emma, Hon. Mrs. Dominis, Hon. Mrs. Bishop, and other members of the families of ancient Aliis, were stationed near at hand, and the rest of the church was solidly filled with an eager crowd.

Precisely at 12 o'clock noon His Majesty, escorted by the members of the late King's staff, and followed by some of those who were his personal friends when he was a prince, entered the church. The immense audience rose and greeted him with enthusiastic cheers. His Majesty was simply but elegantly dressed, and wore no decorations save the broad scarlet ribbon and silver star of royalty. He was met at the entrance to the church by Chief Justice Allen and the members of the cabinet of the late King. Upon reaching the platform His Majesty remained standing while a prayer was offered by Rev. H. H. Parker, after which he took his seat, while the certificate of his election was read in Hawaiian and English. He then rose and approached the table upon which rested the Bible and took the oath, which was administered by the chief justice.

Upon the conclusion of the addresses the choir sang the stirring anthem, E ola ka Moi i ke Akua—God save the King—and His Majesty, followed by the staff of the late King, and others, returned to the palace. The audience then dispersed, and for a long time lingered around the palace-gate cheering for King Lunalilo.

After the proceedings in the church his excellency Governor Dominis and the Hon. H. Kahanu, escorted by the Hawaiian cavalry, rode through the principal streets and made verbal proclamation of the accession of His Majesty Lunalilo, King of the Hawaiian Islands.

The appearance of the military was unusually good, and we were particularly struck with the soldierly appearance of the United States marine corps from the Benicia. They are a fine body of men and splendidly drilled. A royal salute was fired, upon the elevation of the royal standard within the palace, from the battery on Punch-Bowl and the Benicia, and the several church-bells of the city rang out their joyful peals when His Majesty had taken the oath.

Within the church, the group immediately around the platform presented a brilliant appearance. The various uniforms, decorations, jewels, &c., were displayed to great advantage. The ladies present gave lightness to the group, like jewels in a setting of dead gold. A beautiful floral crown ornamented the front of the platform, and vases filled with lilies were placed at intervals upon it. The closing anthem, by a large native choir, was splendidly sung, and was heard to great advantage as the vast audience poured from out the church.

It is interesting to know that the words of this anthem are of the King's own composition, written while he was Prince Lunalilo for a public occasion during the last reign, and that the only changes made are in the insertion of his own name in the second verse and a portion of the last verse.

[Extract from the Hawaiian Gazette of Honolulu.]

LEGISLATIVE PROCEEDINGS.

SIXTH DAY, *January* 14.

Assembly met at 10 o'clock a. m.; Hon. vice-president in the chair.

Hon. Mr. Aholo moved that the resignation of Mr. F. A. Judd be accepted and placed on file, and that the clerk of the assembly be instructed to notify the board of inspectors of election of the vacancy caused by the resignation of the member from Honolulu, and that an election be ordered to fill such vacancy.

Motion carried.

Hon. E. Mikalemi introduced a resolution that the sum of $10,000 be appropriated for the necessary expenses of the legislature of 1873.

Resolution adopted.

Assembly took a recess. Upon re-assembling, his excellency C. R. Bishop stated to the house that it had pleased His Majesty to appoint his colleagues and himself cabinet ministers; that no official notice had been given of the same, but that they took their seats in the house by virtue of their commissions, which they would produce to the assembly if necessary.

The sergeant-at-arms then announced his honor Elisha H. Allen and his excellency P. Nahaolelua, royal commissioners, with a message from His Majesty.

The following commission was then read:

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"LUNALILO, by grace of God, King of the Hawaiian Islands:

"To our well-beloved subjects, the Hon. Elisha H. Allen, chief justice of our supreme court and chancellor of our kingdom, knight grand cross of our royal order of Kamehameha I; and his excellency Paul Nahaolelua, governor of our island of Mani, knight commander of our royal order of Kamehameha I, greeting:

"Whereas our legislative assembly is now sitting in the city of Honolulu; and

"Whereas it is our royal will and pleasure to communicate with them by a special message on Tuesday, the 14th day of this present month of January, at 12 o'clock noon:

"Now, therefore, know all men to whom these presents may come, that we have constituted and appointed, and do, by these presents, constitute and appoint you our special commissioners to deliver the said special message to the said legislative assembly, on the day appointed as aforesaid; and we do now command all our loyal subjects, and more especially our ministers of state, and all our nobles, and the representatives of our people, to take notice of this our commission, and appoint and to govern themselves accordingly.

"Given under our royal sign-manual at Iolani palace, in the city of Honolulu, this 13th day of January, in the year of our Lord 1873.

("Signed) "LUNALILO."

The following message from His Majesty was then delivered by the royal commissioners:

Nobles and representatives:

You were called together for an extraordinary session, the especial object of which has been accomplished.

I deem it, however, my duty to present to your consideration the subject of amendments to the constitution, for which the eightieth article of that instrument provides.

I trust this additional labor will detain you from your homes only for a short time.

The present constitution provides that the legislative assembly shall consist of the nobles appointed by the King, and of the representatives of the people, sitting together. I present to your consideration the propriety of a separation of these two bodies, so that each will be independent of the other. This is in accordance with the principle and practice of legislation under all well-regulated governments.

Should you be of opinion that there should be two houses, as formerly, I would suggest the propriety of the ministers of the Crown having the privilege secured to them of presenting their views to the house of representatives on important subjects connected with their several departments. As they are members of the house of nobles *ex-officio*, they of course can have no right to vote in the house of representatives.

There is another modification which I have no doubt will receive your careful consideration, and of which you are especially qualified to judge. I refer to the property qualification for electors.

The King's cabinet consists of the minister of foreign affairs, the minister of the interior, the minister of finance, and the attorney-general of the kingdom, who are His Majesty's special advisers in the executive affairs of the kingdom.

The especial duties of the office of attorney-general are distinct from those of the executive. He is often necessarily absent from the capital on the business of his office, and cannot fully discharge the duties of a member of the cabinet. I therefore advise this amendment: that the attorney-general shall not be a member of the cabinet.

I would further suggest, as a proper amendment, that whenever the King deems it his duty to return without his signature a bill or resolution passed by the legislative assembly, that he will communicate his objections in writing to that house in which it shall have originated.

These are the principal amendments which I regard as desirable. There may be others which you may suggest, to which I shall give a respectful consideration.

LUNALILO.

Hon. Mr. Rice moved to refer the message of His Majesty to the judiciary committee, with instructions to report thereon as speedily as possible.

Motion carried.

Hon. D. Kaukaha moved that the message of His Majesty be printed and distributed among the members.

Carried.

Assembly adjourned.

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No. 231.

Mr. Peirce to Mr. Fish.

No. 195.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, March 8, 1873. (Received April 7.)

SIR: The census of the inhabitants of the Hawaiian Kingdom having been taken on the night of 27th December, 1872, and the tables thereof just completed, I inclose herewith a copy taken from the books of the board of education in anticipation of publication, soon to be made. The tables have value in view of the political relations yearly becoming closer between the United States and these islands.

I am, &c.,

HENRY A. PEIRCE.

[Inclosure 1.]

Census of the inhabitants of the Hawaiian Islands, taken December 27, 1873.

(From official tables.)

Males	31,650
Females	25,247
Total	56,897

	Males.	Females.	Total.
Under 6 years of age	3,574	3,295	6,869
Between 6 and 15 years	4,903	4,128	9,031
Between 15 and 40 years	13,282	10,279	23,561
Over 40 years	9,691	7,545	17,236
Married	13,077	12,682	25,759
Natives	26,130	22,914	49,044
Half-caste	1,225	1,262	2,487
Chinese	1,831	107	1,938
Hawaiian-born, both parents being foreigners	418	431	849
Americans	649	240	889
British	441	178	619
German	177	47	224
French	69	19	88
Portuguese	367	28	395
Other foreigners	343	21	364

Clergymen	120
Teachers	324
Licensed physicians	47
Lawyers	91
Merchants	727
Mechanics	2,115
Agriculturists	9,670
Plantation laborers	4,773
Freeholders	6,534

RECAPITULATION.

Natives	49,044
Half-castes	2,487
	51,531

FOREIGN-BORN.

Americans	889
British	619

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Germans	224
French	88
Portugese, (Western Islanders)	395
Chinese, (laborers)	1,938
Other nations	364
Children of foreign parents born in Hawaii	849
Total foreigners	5,366
Natives	51,531
Total population 1872	56,897
Total population 1866	62,959
Decrease since 1866	6,062
Adding increase foreign population	3,515
Decrease natives in six years	9,577
Foreign population in 1866	1,851
Foreign population in 1872	5,366
Increase	3,515

No. 232.

Mr. Peirce to Mr. Fish.

No. 197.] LEGATION OF THE UNITED STATES OF AMERICA,
Honolulu, March 10, 1873. (Received April 7.)

SIR: Inclosed herewith is an account of the trip of the United States ship Benicia from this port to Hilo, Byron's Bay, Hawaii, with His Majesty the King on board as guest, and accompanied by Rear-Admiral Pennock, Major-General Schofield and Brigadier-General Alexander.

The King, on his return to Honolulu, expressed to me his high appreciation of the kindness and attention he had received from Rear Admiral Pennock and all the officers on board, and that the trip had been a most delightful one to him.

The rear-admiral informs me that His Majesty, by his refined bearing, affability, and gentlemanly conduct, endeared himself to all on board.

The rear-admiral intends to visit Hawaii again, and other islands, with the flag-ship California, to be accompanied by the King.

With great respect, &c.,

HENRY A. PEIRCE.

[Inclosure 1.—From the Hawaiian Gazette, March 5 1873.]

HIS MAJESTY'S VISIT TO HILO.

Early Sunday morning the United States steamer Benicia, Captain Clary, with His Majesty's ensign flying at the main, was seen off the harbor, having had a short trip of twenty hours from Hilo, which port she left on Saturday last. At 8 o'clock the battery on Punch-Bowl fired a royal salute, announcing the King's return, and at 9.30 he landed under royal salute from her Britannic Majesty's steamer Scout and United States steamer Benicia. As a report of what occurred at Hilo will interest our readers, we give the particulars as fully as we can gather:

The Benicia arrived off the Bay of Hilo at 7 a. m. on Friday morning, twenty-two hours from Honolulu, and in charge of Pilot Babcock was soon at an anchor in the the harbor. Lieutenant-Governor Lyman and Sheriff Severance immediately went off

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to the ship and invited His Majesty ashore. As may well be imagined, the little village began to swarm like a beehive, and natives and horsemen could be seen hurrying into town from every direction.

At 10 o'clock His Majesty left the ship, accompanied by his chamberlain, Adjutant Judd, and Lieutenant-Governor Lyman; and as he landed the Hilo band greeted him a welcome, playing "God save the King," while the crowd burst out with hurrahs. He immediately repaired to the residence of Governor Lyman, where crowds of people gathered and cheered him, to which he responded in a few words, and said that on Monday he would be pleased to meet all who might wish to visit him.

At 5 p. m. of the same day the scholars of all the schools in Hilo formed in a procession, headed by the band, and marched to the King's residence to greet him. He received them in his usual courteous manner and addressed a few words to them.

During the evening the glee club of the Hilo boarding-school and the band serenaded the King, singing and playing several songs, among them "My country 'tis of thee, sweet land of liberty," and an original composition, "Lunalilo forever, hurrah, boys, hurrah!" His Majesty complimented the musicians very highly on their proficiency, and, in a neat short speech, returned his thanks.

Saturday noon His Majesty visited the Benicia, and was received by Captain Clary and officers. A salute was fired in honor of the day—Washington's birth-day. He also waited on Admiral Pennock, and saw him safely mounted for his trip to the crater. The admiral was accompanied by his aids and two officers from the Benicia, also Generals Schofield and Alexander and two guides.

The church-going people of Hilo turned out on Sunday in their gayest attire, it having been noised about that the King would attend church. As may well be imagined the building was crowded, and it was a sight not often seen in the pretty tropical village of Byron's Bay. Rev. T. Coan preached on the occasion, and the services were novel and interesting, the choir performing most beautifully the anthem "The earth is the Lord's and the fullness thereof." In the evening His Majesty listened to a sermon preached by Rev. Mr. Thompson in the foreign church.

Monday, however, was the great day of the feast—hookupu day—when all who choose, from the poorest to the richest, could go and present themselves to their King. Long before the hour set to receive the people, crowds had gathered around and in the court-house yard, and the streets for blocks in each direction were thronged with people. At 9.15 a. m. His Majesty appeared at the court-house, accompanied by his chamberlain, adjutant, Governor Lyman, and Sheriff Severance. Soon after the students of Mr. Lyman's school marched before him and sang several beautiful songs. At 10 o'clock the natives began to file past His Majesty, shaking hands with him and depositing their gifts. Such a sight had not been seen there for many a year. Some two thousand persons, men, women, and children, passed in line before their sovereign, each bearing a gift, till it would seem as if the yard could not contain what they had brought. These gifts consisted of turkeys, ducks, chickens, pigs, eggs, potatoes, bananas, oranges, taro, mats, koa-dishes, and in fact almost every article of use in housekeeping, not excepting money. After sending off several boat-loads to the Benicia and distributing to the principal residents, there were still cart loads on hand. This occupied at least two hours, after which the foreigners paid their respects to His Majesty. At the conclusion of this ovation the king addressed the populace as follows:

To all present I tender my warmest aloha. This day, on which you are gathered to pay your respects to me, I will remember to the day of my death. (Cheers.) I am filled with love for you all, fellow-citizens, (makaainana,) who have come here on this occasion, and for all the people, because, by your unanimous choice, I have been made your King, a young sovereign, to reign over you, and to fill the very distinguished office which I now occupy. (Cheers.) You are parents to me, and I will be your father. (Tremendous cheering.) Formerly, in the days of our departed ancestors, you were not permitted to approach them; they and you were kept apart; but now we meet and associate together. (Cheers.) I urge you all to persevere in the right, to forsake the ignorant ways of the olden time. There is but one God, whom it is our duty to obey. Let us forsake every kind of idolatry.

In the year 1820 Rev. Messrs. Bingham, Thurston, and others came to these islands and proclaimed the word of God. It is their teachings which have enabled you to be what you are to-day. Now they have all gone to that spirit land, and only Mrs. Thurston remains. We are greatly indebted to them. (Cheers.) There are also among us here (alluding to Revs. Coan and Lyman) old and gray-haired fathers, whose examples we should endeavor to imitate, and obey their teachings.

I am very glad to see the young men of the present time so well instructed in knowledge—perhaps some of them are your children. You must persevere in your search of wisdom and in habits of morality. Do not be indolent. (Cheers.) Those who have striven hard after knowledge and good character are the ones who deserve and shall receive places of trust hereafter under the government.

At the present time I have four foreigners as my ministerial advisers. But if, among these young men now standing before me, and under this flag, there are any who shall

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qualify themselves to fill these positions, then I will select them to fill their places. (Loud cheers.) Aloha to you all.

The audience was perfectly carried away with delight at the kind words of their sovereign, and all, old and young, seemed proud of the son of the good Kekaulaohi. For days after the speech was made the old men and women could be heard repeating it word for word.

On Tuesday, February 25th, Mr. Severance gave a social party in the evening, which the King honored with his presence, and joined in the juvenile amusements, much to the delight of the young ladies and gentlemen assembled there.

On Wednesday he dined with Captain Spencer and the admiral and officers of the Benicia. The same day he visited the various schools of the village, and on Thursday Mr. Lyman's school, with all of which he expressed himself very much pleased.

On Friday evening Lieutenant Governor Lyman gave a ball, which His Majesty attended, and, with dancing and music, the hours passed very pleasantly.

The week spent at Hilo was very much enjoyed by His Majesty, who returns in improved health, and evidently refreshed by the visit. It is eight years since he was last there, and during the interval many changes and improvements have taken place in the village.

It was a gala week for Hilo, and her people have done themselves great credit in the manner they received and entertained their distinguished visitors. The King everywhere won golden opinions by his modest and unassuming bearing toward all his subjects. Hilo has been honored with the first visit from him since his election; and we doubt not he will soon be able to honor other portions of his kingdom with his presence.

EXPLORATION RIVALRIES ON PEARL RIVER.

Last week a party of officers of Her Britannic Majesty's steamer Scout, heavily armed with champagne and sardines, and accompanied by an auxiliary party of friends, made a reconnoissance in Ewa Harbor, for pleasure or science, we don't know which—perhaps for both.

Yesterday two steam-launches, with a large party of officers from the California, proceeded to the lagoon to remain several days, in order to make a thorough survey. The report from the hydrographic bureau about Pearl River will be a valuable one when it comes to hand.

No. 233.

Mr. Fish to Mr. Peirce.

No. 92.] DEPARTMENT OF STATE,
Washington, June 14, 1873.

SIR: This Department learns with regret, through Mr. De Long, the minister of the United States in Japan, that the Hawaiian authorities are disposed to embark in what is called the "coolie trade" for the purpose of obtaining laborers in that country, probably to cultivate the sugar-estates in the Sandwich Islands. The demand for labor for that and other purposes there can easily be understood. It is, however, a grave consideration for the Hawaiian government, whether they will so far brave general public opinion elsewhere as to incur the imputation of countenancing that which is virtually the slave-trade under another name for the purpose of supplying that demand. You may, at a proper time, mention in an informal way our view of the subject to persons of influence and authority about you. We are aware it may be answered that none but voluntary emigrants are desired. These, however, can in point of fact be obtained only under contract, for which the competency of the supposed emigrant may, in most instances, be questioned.

I am, &c.,

HAMILTON FISH.

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XX.—ITALY.

No. 234.

Mr. Marsh to Mr. Fish.

No. 407.] LEGATION OF THE UNITED STATES,
Rome, June, 24, 1872. (Received July 31.)

SIR: The session of the Italian parliament which has just closed has been a successful one for the administration, and the action of the national legislature at its first meeting at the new capital has been in the main satisfactory to the people of Italy.

No new line of public policy has been struck out; no really important legislative measure adopted by the parliament or brought forward by the ministry; critical and exciting questions have been discreetly postponed to future sessions, and thus the political machine will gain time for the spontaneous adjustment of its working to the new conditions in which it is placed, and many points difficult to dispose of in advance by legislation will have virtually settled themselves before parliament is required to pronounce upon them.

The session, however, has not been without important political results. Among these are a more general conviction that the transfer of the seat of government to Rome was a political necessity; that Rome will continue to be the permanent national capital, and that the papacy has henceforth little political significance. The physical disadvantages of the position of the seat of government are indeed formidable. A capital in the center of a desert fifty miles square—for such is the Campagna—must be subject to great material inconveniences, and when we remember that without extraordinary and expensive precautions its climate and that of its environs is most unhealthy for more than a third of the year, and that a considerable proportion of the city is subject to frequent and disastrous inundations, we cannot but admit that few European royal residences are so unfortunately situated.

The enormous cost of living, rapidly increased by the growing influx of strangers, by the augmentation of the stationary population, which is stated to have already added forty thousand new inhabitants to its numbers since the 20th of September, 1870, and by the heavy octroi duties upon every article of consumption imported within the walls, is a very serious evil both to the government and the citizens of Rome, and some measures of relief from these inconveniences must at all hazards be adopted.

Many plans for the amelioration of the health of the city and the surrounding country, for the removal of other local obstacles to its prosperity, and for facilitating the communication by railway between the capital and the provinces, have been suggested, but no comprehensive system of improvement has been adopted, and there is serious danger that, from want of means and from a natural impatience to afford some relief, the government and the municipality of Rome will content themselves with half measures, temporary expedients, which will furnish no radical cure for any of the evils I have alluded to.

In spite of all these discouraging circumstances the people of Italy, and especially the new population which is flocking into Rome from all parts of the kingdom, have a firm faith in the material fortunes of the new capital, and not only are arrangements in progress for building on

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an extensive scale, but the price of real estate has risen in a proportion and with a rapidity of which I have not seen an example even in the most flourishing towns of the United States.

The public debt necessarily imposes heavy burdens of taxation on the people, and the national treasury does not realize by any means the full amount of taxes legally chargeable. At the same time agriculture, in spite of many drawbacks, is prosperous, commerce increasing, and manufactures, especially in silk, are reviving after a long depression.

On the whole, then, the first year of the complete reconstitution of Italy ends encouragingly, and I see no reason to doubt her future rapid progress in strength, wealth, and importance in the European political system.

I have, &c.,

GEORGE P. MARSH.

No. 235.

Mr. Marsh to Mr. Fish.

No. 428.] LEGATION OF THE UNITED STATES,
Rome, December 9, 1872. (Received January 6, 1873.)

SIR: I have the honor to transmit by this post, in a separate envelope, a copy of the bill for the regulation of the religious corporations at Rome, proposed to Parliament by the Italian ministry, together with the statistical and other documents prepared by the government in explanation and support of the measure.

These papers are too voluminous for translation, and as I received them *only* this morning, I have not yet had time to make myself acquainted with their purport.

The bill will meet a strong opposition from both extremes of the chamber, and its passage in its present shape is considered very doubtful by the best informed persons with whom I have conversed on the subject.

The debate on this bill will be preceded by another discussion in relation to the policy of the ministry in the collection of the taxes under existing laws, and it is questionable whether the cabinet will be able to rally a majority in its support on this question. I do not, however, expect a complete overthrow of the present able government, though a modification of the ministry in several departments is highly probable.

I have, &c.,

GEORGE P. MARSH.

No. 236.

Mr. Marsh to Mr. Fish.

No. 429.] LEGATION OF THE UNITED STATES,
Rome, December 19, 1872. (Received January 15, 1873.)

SIR: The recent suppression of several charity-schools established at Rome by Mrs. Gould and by Mr. Van Meter, citizens of the United States, having excited much attention in Europe, and having been a

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subject of dissension in the Italian Parliament, I think it my duty to put you in possession of the facts, so far as they have come to my knowledge. I ought to premise that I have not seen Mr. Van Meter since his arrival at Rome, and that he has made no communication to the legation, except a verbal inquiry as to the extent of the rights secured by treaty to American citizens in Italy—a point on which he appears to have been misinformed; and, further, that nothing has passed between me and the Italian government in relation to either of the cases. In 1870, Mrs. Gould established, and has since conducted at Rome, a charity-school for children of both sexes, which at the period of its suppression, about a week since, numbered upward of a hundred pupils. Not being familiar with the requirements of the Italian law, Mrs. Gould did not ask permission of the authorities before opening her school, nor have all her teachers, either Catholic or Protestant, been provided with certificates of qualification as required by law. These irregularities were, however, not noticed by the government, and as the school was evidently a highly useful institution, and its management has been in all respects judicious, it was approved and encouraged by many prominent citizens of Rome, both private and official, including the predecessor of the present minister of public instruction and the syndic or mayor of the city. There were, indeed, certain hostile influences in action, but they produced little impression upon the authorities or upon public opinion at Rome, and I am persuaded that the school would have gone on indefinitely without interruption or objection but for difficulties growing out of the establishment of the schools of Mr. Van Meter, which in the opinion of the authorities required their intervention.

About the close of October, 1872, Mr. Van Meter arrived at Rome, and soon after opened four charity-schools in different parts of the city, one near the Vatican, which have been numerously attended, and, so far as I know, well conducted. Being, as I am informed, under the impression that American citizens in Italy were legally entitled to the enjoyment of all the rights and liberties possessed by Italian citizens in the United States, Mr. Van Meter did not think it necessary to apply to the authorities for permission to open the schools, or to secure in every case the aid of licensed teachers. His operations, whether from the scale on which they were carried on, from the choice of localities for some of the schools, or from some other acts of his on which I have no definite information, excited the jealousy of persons opposed to movements of this nature, and it was represented to the municipal government that, in at least one instance, the school-room was confined, uncomfortable, and unhealthy; that children of the two sexes were instructed together after the age when the law required them to be separated in school, and that Mr. Van Meter had not complied with any of the provisions of the law in respect to the establishment of public schools.

An officer was sent to inspect these schools, and upon his report substantially confirming these statements, the municipal government ordered them all to be closed.

A further objection, applicable also in Mrs. Gould's case, was started, namely, that the responsible conductor of a public school must be an Italian citizen, and as, upon the whole, no legal distinction could be made between Mrs. Gould's school and those under Mr. Van Meter's superintendence, an order of suspension has been issued as against her institution also.

Mrs. Gould and, I believe, Mr. Van Meter disclaim any views of religious proselytism, though both, I understand, make reading the Bible

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a part of the lessons, and Mrs. Gould at least employs Catholic as well as Protestant teachers.

On the other hand, none of the public authorities, royal or municipal, object to either of the schools on religious grounds, and they declare that a want of conformity to the law is the sole motive for the suppression of the schools, and that if the legal regulations are complied with permission will at once be given for re-opening them all. I believe all official persons concerned in the case have acted in good faith, and in conformity with the principles of religious toleration so long happily proposed and practiced by Italy. I can discover, therefore, no cause of complaint against any measures thus far adopted by the public authorities.

I have, &c.,

GEORGE P. MARSH.

No. 237.

Mr. Marsh to Mr. Fish.

No. 436.] LEGATION OF THE UNITED STATES,
Rome, Januar y 22, 1873. (Received February 12.)

SIR. I have the honor to inclose herewith a copy and translation of the reply of the minister of foreign affairs to my note of January 7, 1873, to that ministry, reported in my dispatch No. 434, dated January 9, 1873.

The minister of the interior has published in the official Gazette, and in other Italian journals, a circular addressed to the prefects of the different provinces of the kingdom, prescribing the observance of certain regulations respecting emigration. The instrument is too long for convenient translation and transmission by post in a written form, and I inclose instead a French translation, which I suppose to be official, as printed in the Italie, a French newspaper published at Rome.

I have, &c.,

GEORGE P. MARSH.

[Translation.]

Viscount Venosta to Mr. Marsh.

ROME, *January* 16, 1873.

Mr. MINISTER: In your note of the 7th instant you did me the honor to call the attention of His Majesty's government to the fact that Italian emigrants to a considerable number had disembarked at New York destitute of almost every means of subsistence, and that they are now a charge upon the public charity.

You added that this unusual number seems to be owing to the artifices of emigration agents in this kingdom, who, in order to create a source of profit, pretend that the United States offer the prospect of good employment, which is, on the contrary, especially difficult to obtain during the winter season. You then propose to correct this erroneous impression by means of notices to that effect in the most widely-circulated journals of this kingdom.

The liberal legislation in vigor in this country in every branch of the public service forbade and forbids the government of His Majesty to interfere with the matter of emigration beyond putting down fraud which might take place and obliging observance of the ordinary police regulations. We shall not fail in our duty in the present emergency. The careful reports of the royal consul-general at New York and of the royal minister at Washington had already put us in the position to institute a strict investigation of these facts, and to provide that the warning of what has taken place, properly spread among the population, might act as a restraint upon unwise emigra-

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tion. In any case, however, the royal government is very grateful to you for having contributed, by having published in the papers the notice I have since seen, to check an evil we sincerely deplore without the power to apply a radical remedy.

For the very reason that it is so manifestly our interest that arms already so needed should not be taken away from agriculture and national industries, the warning of the sufferings to which emigrants expose themselves would be much more efficacious proceeding from your legation than from the Italian authorities.

Regarding the burden imposed by this exceptional injunction upon the federal institution for the protection of emigrants, and upon the charity of the citizens of New York, I am happy to note that, according to a recent report of the royal consul-general, of the 1,500 emigrants who landed there during the past week, there remained at the date of the 23d of December to the charge of the commissioners of Castle Garden only a hundred at the most, the others living on their resources and with the assistance of their compatriots, or else having already found work, either in the city of New York itself or in the State of Virginia, where two hundred and fifty were sent at the expense of a generous Italian.

I avail myself, Mr. Minister, of this occasion to renew to you the assurance of my high consideration.

VISCONTI VENOSTA.

The official Gazette publishes the following circular from the minister of the interior to the prefects of the kingdom in relation to emigration to America:

ROME, *January* 18, 1873.

The reprehensible speculation which consists in promoting, from interested motives, the emigration of citizens, to South America particularly, has been for some time daily increasing. A large number of agents travel through those provinces especially where the agricultural population is the poorest and most ignorant, for the purpose of prevailing upon this class to leave their native country, flattering them with the hope of making speedy fortunes in the New World.

Many families in the country, led astray by these deceitful promises, sell their furniture, and even a portion of their clothing, in order to pay the price of their passage to speculators, who pen them up on board of vessels almost like so many cattle, and ship them to America, provided they do not abandon them in some intermediate port. There these unfortunates fall into the hands of other speculators, who, after having advanced some paltry sums to them, reimburse themselves by depriving them entirely of their liberty, leaving them at last in abject poverty. Such is, in general, the sad condition of the majority of our emigrants, and until a succession of painful tidings from abroad, and tales of suffering related by returned emigrants, shall have dissipated in the minds of the peasants the illusions which adroit charlatans have awakened there, the victims of this culpable speculation will be but too numerous.

Our consuls have sent accounts to the government of the deplorable situation of thousands of Italians who thus abandon their country, and it is the duty of the government to use all the means in its power to put a stop to this immoral traffic of the agents and to this illegal emigration.

Everything renders it incumbent upon the government to adopt energetic measures. In the first place, the law, which must be respected, fraud, which must be punished, and, moreover, the commiseration which should be felt for a class of citizens who are truly unfortunate, the maintenance of the decorum of the country, the demands of public opinion, and, finally, the serious embarrassments caused to our consular officers by the protection of poor, abandoned, victimized emigrants, and the large expenses which the government is obliged to incur in succoring them and bringing them home again.

The minister, therefore, addresses the prefects, and recommends them to give precise and rigorous instructions to prevent, and, if necessary, furnish information to the proper authorities concerning the immoral speculation of agents and the illegal emigration brought about by them; likewise, to endeavor to keep legal emigration within proper bounds. The following rules should be taken as a basis:

1. Require the provisions of article 64 of the law concerning the public safety, and of articles 74, 75, 76, and 77 of the regulations, to be applied with firmness to emigration agents; and order the mention of operations having for their object the shipment of emigrants to be stricken from the table of operations prescribed by the aforesaid article 76.

2. Cause correspondents and emissaries of foreign agencies to be watched, in order that information of their proceedings may be lodged with the proper authorities, if it appears that they favor illicit emigration or the escape of mutinous persons and deserters, by furnishing the means of embarking to young men still liable to conscription, or to soldiers who have not received a full discharge.

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3. Enjoin upon the officers to whose care the public safety is intrusted in sea-ports to watch emigration carefully, and to inform the judicial authorities of any instance of a captain's taking any person on board of his vessel who has no passport, in violation of the provisions of article 130 of the special law in relation to the merchant marine, sanctioned by the royal patents of January 13, 1827, and promulgated throughout the kingdom by a royal decree dated December 22, 1861.

4. Enjoin upon syndics, especially those of the communes whence the emigration is largest, to dissuade persons under their jurisdiction from the idea of expatriating themselves, by causing them to see what a risk they run of falling into the hands of greedy speculators in localities remote from cities, where they will probably remain exposed to annoyances from the natives, while it will be impossible to give them the aid and protection of which they stand in need.

5. Order the syndics themselves, when they do not succeed in causing those under their jurisdiction to abandon the idea of emigrating, to refuse a permit to young men who have not as yet satisfied the demands of the conscription; to soldiers whose discharge is not final; to those who, by reason of any physical or moral imperfection, are unable to perform sufficiently productive labor; and, finally, to those who are unable to prove that they have the necessary resources for the passage, and to provide for their own subsistence during the time which is presumed to be necessary, and which is always pretty long, to find work in the country to which they intend to go, and who cannot present a responsible person who will pledge himself, in writing, to pay the homeward passage if necessary.

6. Order sub-prefects and officers having charge of the public safety strictly to observe the provisions now in force when they deliver passports to emigrants, and especially the following provisions:

(*a.*) Article 2 of the royal decree of November 13, 1857, and the circulars of April 27, November 20, 1866, and May 28, 1870, numbers 29631, 28807, and 12850-12, which order that passports shall be carefully worded, that each person shall be clearly and accurately described therein, that the signature of the applicant shall be required; this is to be done in order to prevent passports from being furnished to improper parties.

(*b.*) Article 4 of the royal decree aforesaid, and article 4 of the instructions, which only exempt applicants from the obligation of taking out their passports in person for very weighty reasons.

(*c.*) Article 10 of the royal decree already referred to, and the corresponding articles of the instructions; also the circulars of September 4, 1860, August 21 and November 1, 1861, June 24, 1862, August 27, 1869, and December 26, 1871, numbers 61, 59, 81, 60, 3113, and 11900-18, which provide that no passports shall be issued to persons not having sufficient means.

(*d.*) Article 29 of the regulations for the merchant marine, dated January 7, 1827, and article 12 of the royal brevet of September 17, 1842, published by the royal decree of December 22, 1861, and again ordered to be executed by the circular of January 16, 1863, No. 34, according to which passports are not to be issued to seamen without the consent of the maritime authorities; and no passports are to be delivered to young men who have not yet satisfied the obligations of the conscription, unless the moral certainty exists that they do not entertain the culpable design of escaping from military service, but that they are, on the contrary, ready to return to their country at the first call.

(*f.*) Give orders to the corps of royal carabineers, and to the officers in charge of the public safety, in ports of shipment and on the routes leading to the frontier, to prevent the departure of emigrants who have no passport, and of those having a passport not properly belonging to them personally, or one which is irregular or has been irregularly obtained.

(*g.*) Give orders to the officers having charge of the public safety to adopt, as regards emigrants whose departure has been prevented, the measures prescribed by article 65 of the law of March 20, 1865, sending them back to their homes with a compulsory way-bill, even causing them, when necessary, to be accompanied by a portion of the public force. It would even be proper for prefects to endeavor to have published in the local newspapers the articles and letters relative to the situation of Italian emigrants, to the end that the sad experience of so many who have already left their country may confirm the counsels of the authorities, and dissuade our fellow-citizens from emigration, especially those who have not the necessary means.

The minister hopes that it will, in this manner, become possible to repress the baleful industry of emigration agents, and that, by enlightening the citizens with regard to the dangers to which they expose themselves by their blind faith in the fallacious promises of rapacious speculators, the authorities will put a stop to their increasing disposition to abandon the country of their birth.

Prefects will have this circular inserted in the bulletin of the prefecture, transmit two copies thereof to sub-prefects and questors, one to each district-commissioner, inspector, and delegate, as likewise to each chief of bureau, and acknowledge receipt.

G. LANZA,
Minister.

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No. 238.

Mr. Marsh to Mr. Fish.

No. 460.] LEGATION OF THE UNITED STATES,
Rome, June 25, 1873. (Received July 14.)

SIR: The Italian ministry, which has been long seriously threatened by the opposition, was defeated this evening on a question of financial policy and has resigned. The ordinary left party was not of itself strong enough to overthrow the ministry, but the measures proposed by the minister of finance and supported by the government were unpalatable to many members of the right; and on this occasion the opposition was headed by Mr. Minghetti, who has heretofore acted with the administration. Other members of the same party followed Mr. Minghetti, and the result was as I have stated.

I have seen the minister of foreign affairs and several other members of the cabinet since the vote was taken, and learn from them that it was understood beforehand that in case of their defeat Mr. Minghetti would be called on to form a new cabinet. Well-informed Italian politicians doubt whether Mr. Minghetti will succeed in organizing a new ministry; and, in any case, several days will probably elapse before this question will be decided.

I have, &c.,

GEORGE P. MARSH.

No. 239.

Mr. Marsh to Mr. Fish.

[Extract.]

No. 461.] LEGATION OF THE UNITED STATES,
Rome, June 26, 1873. (Received July 18.)

SIR: The bill for the extension of the law concerning religious corporations to the province of Rome having passed the Italian senate in the form in which it had passed the chamber of deputies, has been approved by the King, and is now a law.

It is, substantially, the bill recommended by the special committee of the chamber. The most important modification of that bill is the provision of the third paragraph of section 4, article 2, which authorizes the King to allow to the representatives of the religious orders at the city of Rome the occupancy of the localities necessary for their residence and the discharge of their duties. This modification was extremely unpalatable to the opposition, as a dangerous concession to clerical interests, but it was insisted on by the ministry and at last adopted.

It is evident that the legal construction and effect of this provision is open to question, and I apprehend it may prove a source of serious embarrassment to the civil government.

It has for some time been asserted by the opposition newspapers, and is now admitted by the ministerial journals, that both France and Austria had made to the Italian government "observations" on certain features of the proposed law, but it is denied that these observations

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amounted to anything in the nature of a protest, or that they were offered in any but the most courteous form. Such as they were, however, they doubtless had some influence with the ministry, though none with Parliament or with the Italian public. This interference is resented by the nation, and it is tending to alienate Italy from its former friendly feeling toward France, to which power the action of the two governments is popularly ascribed.

* * * * * * *

I have, &c.,

GEORGE P. MARSH.

No. 240.

Mr. Marsh to Mr. Fish.

No. 462.] LEGATION OF THE UNITED STATES,
Rome, July 10, 1873. (Received July 30.)

SIR: After two weeks of consultation with leading members of both political parties, Mr. Minghetti has succeeded in forming a ministry, in which he holds the position of president of the council and minister of finance. Messrs. Vincenti, Venosta Ricolti, and Scialoja resume their portfolios as ministers of foreign affairs, war, and public instruction, respectively, and the other departments are filled by gentlemen of known ability, but not, so far as I recollect, of previous ministerial experience.

Mr. Minghetti's first movement was to make advances to gentlemen of the opposition, and four portfolios, including the important ministry of finance, were offered to them through Mr. Dessretis, the parliamentary leader of the left. These positions were refused, and Mr. Minghetti then proceeded to form a cabinet from the right, a ministerial party.

Two reasons for the refusal of Mr. Dessretis and his friends to accept Mr. Minghette's offers are given. One is that, in conferring with Mr. Dessretis, Mr. Minghetti said that he made these overtures to the gentlemen in question, not as representatives of the parliamentary opposition, but as able and respected statesmen. This, it is said, was not thought a sufficient concession, and a distinct recognition of the left as an element in the new ministry was insisted on. The other and more probable account of the matter is that the opposition insisted that the ministry of the interior should be given to one of its members, and that the negotiations were broken off on Mr. Minghetti's refusal to accede to this demand.

The ministry of the interior can hardly be considered as equal in importance to either that of foreign affairs or of finance. But in the first of these departments there are now no questions of magnitude pending, and the other is an essentially unpopular ministry, and must remain so as long as there is a probability that there will be a necessity for enforcing new taxes, or for more rigorously enforcing the fair assessment and prompt collection of those due on the present burdensome system.

The ministry of the interior, being brought into more direct connection with the people, and that in a way not ordinarily offensive, and it has a larger amount of patronage and, of course, a greater amount of popular influence than any other department. The reasons which made this position especially desirable to the opposition made it equally so to the ministerial party, and the control of it was too important a point to be relinquished by either.

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Mr. Minghetti has always maintained the ministerial, or what may be called the tory, party in Parliament, but in the debates on the question which led to the overthrow of the late cabinet he acted with the opposition, and was followed by so many of his old associates that the final ballot can hardly be said to have been a party vote. He is one of the ablest parliamentary speakers in Italy, is also a man of a wide range of attainment and culture, and has few or no superiors in the country as a writer on political economy and kindred subjects. Worthy of special note are his letters on religious liberty, published in 1855. The views expressed by him in those letters were much in advance of European public opinion at that time, especially in Catholic countries; and even now, for Americans, to whom religious liberty is so much a matter of course that they have almost ceased to *think* on the subject, they have much both of interest and of novelty.

As a minister of finance, in a former cabinet, Mr. Minghetti was not successful, but the economical condition of Italy has changed so much since that period that a former failure affords no ground for predicting an unfortunate administration of the public exchequer by the same statesman at present.

The new ministers will repair to Florence to-morrow to take the oath of office before the King, and will enter on their duties on Saturday.

I have, &c.,

GEORGE P. MARSH.

XXI.—JAPAN.

No. 241.

Mr. Fish to Mr. De Long.

No. 133.] DEPARTMENT OF STATE,
Washington, August 29, 1872.

SIR: Mr. Shephard's dispatch of July 20, 1872, relating to his refusal to render assistance or protection to the Peruvian bark Maria Luz, was duly received. As that vessel was engaged in the coolie trade the proceedings of Mr. Shephard, as reported in that dispatch, are approved.

I am, &c.,

HAMILTON FISH.

No. 242.

Mr. De Long to Mr. Fish.

No. 271.] UNITED STATES LEGATION, JAPAN,
September 3, 1872. (Received Nov. 1.)

SIR: I have the honor to advise you of the perfect tranquillity that prevails throughout this empire.

The proceedings instituted against the Peruvian ship Maria Luz, at the

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instance of Her Britannic Majesty's chargé d'affaires here, have been terminated by a judgment to the effect that the captain was guilty as charged, but pardoning him on account of his long detention. Nearly all of his Chinese passengers, who in reality are coolies, have been by the Kencho authorities subpœnaed and brought on shore as witnesses. They refuse to return voluntarily to the ship, and the authorities here refuse to extend any aid to the captain to compel them to do so. They seem to intend to thus indirectly set them free, but they have advised the captain that they are still holding them in custody to permit him to sue for their restoration on the contracts he holds if he desires so to do. I learned by report to-day that he has commenced such an action. It will be interesting to know what this trial will develop.

At the request of the captain I addressed the foreign office a note inquiring if the proceedings of the Kencho were with their own knowledge and met with their approval. Also asking for a complete copy of the record, that I might transmit the same to the Peruvian government for its information. In my note, however, I was careful to disavow any intention or desire to influence them in their actions or conclusions, and expressed in strong terms the abhorrence of my government and of myself for the coolie trade.

Their excellencies kindly replied, furnishing me with all information required, but questioning my right to ask for the same for or on behalf of Peru. Therefore, this evening I have again addressed them, thanking them for their courtesy, and forwarding a copy of your No. 15 requesting me to attend to affairs here for Peru; and asking them to advise me if any objections existed upon their part to my extending my good offices to Peruvian citizens in this empire.

I anticipate a conclusion of all of these proceedings before the departure of the next mail, at which time I will advise you further and more particularly, and I will also furnish you with copies of my correspondence with the ministers and the captain.

I have, &c.,

C. E. DE LONG.

No. 243.

Mr. De Long to Mr. Fish.

No. 282.] UNITED STATES LEGATION, JAPAN,
September 27, 1872. (Received Nov 1.)

SIR: Referring to my No. 271, (which by some means unknown to me was omitted from my last mail but goes forward with this,) I beg leave to advise you further in relation to the proceedings had here in respect to the Maria Luz, and to my recognition by this government as acting minister for Peru. On the 30th of August I received a letter from Captain Heriero of the Maria Luz (inclosure No. 1) asking my interposition with the minister of foreign affairs against the action of the governor of this port with respect to his *passengers*, inclosing copy of a note addressed by him to the Kencho, asking to have his passengers returned on board his ship, (inclosure No. 2,) and the reply of the Kencho thereto, (inclosure No. 3.) On the following day, as acting Peruvian minister, I addressed the ministers of foreign affairs on behalf of Captain Hereiro, inquiring of them if the action of the Kencho that the captain com-

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plained of had been taken by his direction and met with his approval. Also asking for copies of the court record and proceedings to transmit to the Peruvian government, (inclosure No. 4.)

On the 3d of this month the minister replied to me as the representative of Captain Heriero, and refusing to recognize me as acting for Peru, (inclosure No. 5,) at the same time transmitting to me a copy of the note of the British chargé d'affaires to him upon which the proceedings against the Maria Luz and her captain were founded, (inclosure No. 6,) also copies of the ship's papers, &c., which I do not inclose, as unimportant.

On the same day I replied to his excellency inclosing to him a copy of your dispatch to me, No. 15, of date the 13th day of April, 1870, requesting me to act as the minister for the Peruvian government and requesting to be recognized as such or a refusal given and the grounds for refusing assigned, (inclosure No. 7.)

I beg leave to assure you that at the time I received this dispatch from you I advised the ministers of foreign affairs thereof, and supposed they had assented to my acting for Peru, as I subsequently transacted some business with them on behalf of Peru relative to the bark Cayatte.

On the 23d instant I received a note from his excellency recognizing me as acting minister for Peru, (inclosure No. 8.) This recognition is of such a nature that I doubt its propriety, but submit the same to you for any instructions you may see proper to give.

The concluding portion of that note, however, I felt called upon to except to as indicating an intention on the part of this government to deal unjustly with American citizens and other subjects and citizens of treaty powers, for availing themselves of their exterritorial rights under the treaties in seeking the protection of their own consular officers.

That evening his excellency the minister of foreign affairs, with the court interpreter, visited me and spent the evening with me. During the evening I called his attention to that portion of his note intimating the intention of his government to discriminate unjustly against American citizens because they might embrace the privilege given to them by the treaties of submitting themselves only to the jurisdiction of their own laws and officers, and I pressed him for an explanation of that matter. He assured me that his meaning was not such as the translation of his note conveyed, and promised to send me another note in explanation, which I this morning received, (inclosure No. 9.) This he asked to have substituted for the former, which I allowed. His last note, however, is about as ambiguous as the former; both of them seeming to me to indicate a feeling of annoyance on the part of the authorities with our Government and others for not abandoning the doctrine of exterritoriality. This, however, the minister disclaimed to me.

On the 19th of August I addressed a dispatch to the Peruvian government relative to this Maria Luz business, (inclosure No. 10,) and also on the 5th instant I addressed that government another note relative to the same subject, (inclosure No. 11.) Copies of these notes I have thought it best to forward to you in order to fully inform you of all I have done or written about this matter.

After Captain Heriero failed to obtain any redress from the foreign office he instituted an action in the Kencho here to compel the Chinese to return to his vessel. I have carefully preserved the report of these proceedings, as published in the daily papers, which I remit to you herewith, (inclosure No. 12,) also I forward to you a copy of a protest filed by his attorney, (inclosure No. 13.) This completes the history of the matter

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up to this date, and fully advises you of all action taken by me with reference to it.

By this mail I shall forward to the Peruvian government copies of the two notes of the Japanese minister about my recognition, copy of Mr. Dickens's protest, and printed report of the evidence taken during this last trial.

Trusting to your kind approval of my proceedings, I am, &c.,

C. E. DE LONG.

[Inclosure 1.]

Captain Heriero to Mr. De Long.

YOKOHAMA, *August* 30, 1872.

SIR: I beg respectfully to lay before your excellency a letter addressed by me to the Kanagawa Kencho, demanding an order to send back the Chinese passengers taken from on board my ship, the Maria Luz, together with a document received in answer to this letter.

The Japanese government, instead of complying with my request, demands me to commence an action against every one of the passengers, stating that the same have declared not to go on board again from their own will, although the legal contracts under which they shipped at Macao are in its possession.

I now humbly beg to crave your excellency's assistance in this matter, trusting that, through your excellency's influence with the foreign ministry in Yedo, a modification of the resolution may be obtained.

I have, &c.,

RICARDO HERIERO.

[Inclosure 2.]

Captain Heriero to the Kanagawa Kencho.

YOKOHAMA, *August* 30, 1872.

I respectfully request that the Chinese passengers who have been taken from on board my ship, the bark Maria Luz, by order of this Kencho, be sent back again to-day, they being bound by legal contracts deposited with the Kencho to proceed to Peru.

RICARDO HERIERO.

[Inclosure 3.—Translation.]

Kanagawa Kencho to Captain Heriero.

KANAGAWA, JAPAN, *August* 30, 1872.

SIR: Your communication of this date, requesting that the Chinese passengers of the Maria Luz, who were summoned by this Kencho to testify in the late inquiry before me, may be returned on board the said ship, is at hand, and has received attention.

I have to inform you that each of those Chinese declines to return on board of the ship, and can only be compelled to do so by this Kencho, after a judgment to that effect regularly obtained in an action brought before me. Such an action any person interested is at liberty to institute, as expressed in the finding already announced, and when this shall be done the case will be adjudicated. This Kencho has certainly no right or authority to force those persons on board your ship against their will, merely at your request.

I am, &c.,

[Inclosure 4.]

Mr. De Long to the ministers of foreign affairs.

No. 103.] UNITED STATES LEGATION,
Yokohama, Japan, August 31, 1872.

YOUR EXCELLENCIES: The captain of the Maria Luz, a Peruvian citizen and an officer of that government, in command of a vessel now at anchor in the port of Yokohama, has addressed me a letter, (inclosure No. 1,) inclosing therewith a copy of a note

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addressed by him to the Kanagawa kencho, (inclosure No. 2,) with a copy of the reply of the Kencho thereto, (inclosure No. 3.) It will be seen that the captain complains that your local authorities at this port, having summoned his Chinese passengers to land at this port to give evidence in a proceeding set on foot in part by a complaint made to you by Her Britannic Majesty's chargé d'affaires, and in part by your own direction, now holds those Chinese in confinement, and refuses either to order their return on board the Maria Luz or to extend any aid to the captain to restore them to his ship. I inclose also for your excellencies' consideration a published copy of the judgment of your Kencho in the above-mentioned proceedings, (inclosure No. 4;) and also refer your excellencies to the following language addressed by your Kencho to the captain, through the interpreter, after having rendered judgment, to wit: "As the Chinamen have determined not to return on board ship, they will be detained here for a few days in charge of officers appointed to look after them, so that if any action be brought on their contracts they can be found."

Your excellencies have been officially informed by me that at the instance of the government of Peru I have been requested by the honorable Secretary of State of the United States to act for the Peruvian government in this empire in all matters not incompatible with my instructions as the representative of the United States.

That, under such request, I have assumed to act for the government of Peru, and in such capacity I have heretofore been fully recognized and treated with by your government.

Distinctly disavowing any wish or desire to influence your excellencies in your action relative to this matter, and frankly admitting my abhorrence for the so-called coolie-trade, yet, as I have undertaken a charge for a power friendly to my own Government, whose citizen, Captain Heriero, is now here involved in trouble and totally powerless to approach you officially except by my assistance; and as he has appealed to me to aid him to the extent of placing his complaint before you, I feel that I am not acting in contravention of my duties as the representative of the United States and only fulfilling the obligations I have assumed for the Peruvian government in herewith forwarding these communications and in asking you to officially inform me, that I in turn may advise the Peruvian government if it is true—

That by and with your advice and direction the investigation at the Kencho in Yokohama was called and held.

If the Chinese summoned by your authorities and brought on shore from the Maria Luz to give testimony as witnesses are now, by your direction, held in custody?

If you authorize and sustain thee Kucho in refusing to return them on board the Maria Luz?

And if these things are true, by virtue of what law, custom, or precedent such action has been or is now being taken?

I trust that your excellencies will favor me with an early and explicit reply to this note, as the Maria Luz is being detained to await your final advices.

I also trust that orders will be given directing your Kencho at this port to take no other or further action until I am advised of your final determination of this matter.

I have, &c.,

C. E. DE LONG.

[Inclosure 5.—Translation.]

Soyeshima Tane-omi to Mr. De Long.

The 30th of the 7th month of the 5th year, Meiji.

SIR: In replying to your letter of August 31, 1872, I am not to be understood as admitting that this government is under any obligations to receive any communication from you in behalf of the government of Peru. I am, however, anxious that Señor Heriero, the captain of the Maria Luz, should not fail to obtain any information to which he is entitled by reason of his incapacity to address this department in his own person. I answer you, therefore, as his representative and for his information, but not for the information of the Peruvian government, as follows: Having been informed by Her Britannic Majesty's chargé d'affaires that cruelties had been committed on board the bark Maria Luz, in the harbor of Yokohama, I requested the Kanagawa kencho to investigate the facts.

The Chinese witnesses brought on shore from the Maria Luz are not, by any direction of this department, held in custody. They remain on shore of their own free will, and are watched by proper officers so that they may be forthcoming if called upon to answer to any action against them founded upon the alleged contracts which were produced before the Kencho. The resolution of the Kencho to refuse to return these people against their free will to the Maria Luz has been fully approved.

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I decline for the present to enter into any argument in justification of the action of the Kencho or of the foreign office. I content myself with saying that I know of no law, custom, or precedent which requires this government, or any other government, to force any person to return to a ship against his will unless he be a fugitive, criminal, or a deserting seaman. While the comity of nations may require the restoration of a criminal, it does not require the restoration of a seaman who violated his contracts and deserts from his vessel unless there is an express treaty providing for such restoration.

With respect, &c.,

SOYESHIMA TANE-OMI.

[Inclosure 6.]

Mr. Watson to Soyeshima Tane-omi.

YEDDO, *August* 3, 1872.

SIR: I beg leave to bring to your excellency's notice the following facts in connection with a Peruvian vessel named the Maria Luz, now in the port of Yokohama, and enjoying the hospitality of the Japanese government.

This ship is engaged in the transportation of coolies from the coast of China to Peru. She has put into this port under stress of weather. The coolies on board are stated to be free emigrants, taking passage under contracts, the nature of which is not apparent. Some time ago a man was found (fortunately at night) alongside Her Britannic Majesty's ship Iron Duke, in a state of extreme exhaustion. He was taken on board, and having partially recovered, stated that he had swam from the ship in question, and claimed the protection of the British authorities. As this is not a British port he was handed over to Her Majesty's consul, and was transmitted by him to the Japanese authorities, who appear to have sent him back to the ship.

This is not the only case in which the alleged passengers of that ship have endeavored to place themselves beyond the reach of those in authority on board; and information having reached me that these men have been severely ill treated, I determined to go on board and inquire into the facts.

I did accordingly go on board, accompanied by the flag-lieutenant of the Iron Duke. The disinclination of the officers whom we found in command to show me the ship or allow me to see the alleged emigrants was very apparent, and it was only when I threatened to obtain what I asked through the assistance of the Japanese authorities that I was permitted to go below, but I was not allowed to take with me the Chinese interpreter whom I had brought with me, and who was the only unbiased medium through whom I could communicate with the alleged passengers. I refrain for the present from entering into the question of the accommodation afforded by the ship, as that may be a fitting subject of hereafter inquiry by your government. On my return to the upper deck I requested to see the man who had taken refuge on the Iron Duke, to whom I have alluded. After some hesitation the man was sent for. He appeared ill and to have suffered much, and upon my proceeding to ask him through my interpreter what had happened since his return to the ship, he was forthwith violently ejected by the mate from the cabin. This conduct raised in my mind a suspicion that he had been ill used, a suspicion borne out by his appearance and by the fact that his tail had been cut off.

Under these circumstances I think it my duty to bring the matter before your government.

The coolie-trade between Macao and the western ports of South America, particularly the Peruvian, has been characterized by such barbarity and by such disregard to the rights of the Chinese government, that it has most justly excited the strongest feeling in Europe and all civilized countries. The contiguity of Japan to China, and the importance to both countries that nothing should disturb the good feeling at present existing between them, renders it most important that Japan should not permit its hospitality to be abused to the possible injury of natives of China.

Hitherto the shores of Japan have been free from the scandal of this abominable traffic, and I think that your excellency will agree with me in deeming that the surest way of preventing its extending would be for the government, promptly and without hesitation, at once firmly to avow its determination not only not to permit it, but to prevent, by every means within its power, the possibility of its being carried on by the subjects of other nationalities.

This Peruvian ship has claimed and has received the hospitality of the Japanese government, which hospitality is of course due alike to every one on board that ship, as well passengers as officers or owners; but in the present case there is grave reason to believe that more than one person on board has been treated in a manner which no law could sanction, and it appears that without reference to your government within whose jurisdiction every soul on board is, by the force of circumstances, placed. The

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officers have assumed the right to punish as criminals men of another nationality whom they allege to be no more than passengers. This, I submit, they had no right to do within Japanese jurisdiction and in the presence of Japanese tribunals, and their assumption appears to me not only a gross breach of hospitality extended to them, but an insult to your excellency's government. Whether this be so or not I leave to your excellency's better judgment to decide.

The circumstances that I have narrated appear to justify me in requesting you to exercise the power which you unquestionably possess to institute an inquiry into events which have occurred within Japanese waters, and in order to do this effectually I would beg to suggest that you should take my application as the basis upon which the inquiry should proceed; that you should interrogate the captain and mate of the vessel; that you should place your authorities in communication with the alleged passengers, and particularly with the first man who sought refuge on board the Iron Duke, and that you should moreover call upon the captain to produce any contract he may have made with his passengers, and likewise any regulation he may have on board for the observance of order on his ship.

As in the present instance the Chinaman in question was delivered up to the Japanese officials by the British authority, I consider that I have the right to request that you will do me the favor of informing me when the inquiry will take place, so that I may be present on the occasion, and you may rely on my rendering you every assistance within my power.

As I am informed that the Maria Luz is about to leave the port, measures should, I think you will consider, be taken to detain her.

Probably this might best be effected by her papers being stopped, but inasmuch as it is possible that every attempt may be made to elude inquiry, steps might perhaps be taken to place the ship under surveillance.

I need hardly say that as the ship is under the flag of a country having no treaty relations with Japan, no other power can control your right to take proceedings which the circumstances that I have detailed appear to me amply to justify and which common humanity demands.

I avail myself, &c.

R. G. WATSON,
H. B. M.'s Charge d'Affaires ad int.

[Inclosure 7.]

Mr. De Long to the ministers of foreign affairs.

No. 104] UNITED STATES LEGATION, JAPAN,
September 3, 1872.

YOUR EXCELLENCIES: The undersigned has the honor to acknowledge the receipt by him this day of your note in reply to his own relative to the affair of the Maria Luz: also at the hands of your interpreter of copies of papers in the case, to wit: copies of the ship's papers, copy of the note from Her Britannic Majesty's chargé d'affaires to you, of date August 8, 1872, relative to the Maria Luz, and also copy of the findings of the Kencho in the Maria Luz examination.

For these very polite favors I thank your excellencies very much.

I beg to again repeat to your excellencies that in addressing you relative to this affair I had not nor have not any desire to influence your actions or opinions. I only sought to obtain information to lay the same before the Peruvian government; such information as I felt sure you would not only be willing to furnish to me, but to the whole world.

I had no desire to lead your excellencies into any argument in explanation or defense of the proceedings that have been taken. My every feeling is antagonistic to this so-called coolie-trade, in which this vessel, it appears, is engaged. I made my inquiries as representative of the United States, lending my good offices to a power friendly to my own to the extent only of obtaining an authentic history of an action that had been brought and tried in the courts of your country, in which persons and property Peruvian had been involved. I have heretofore made known to your excellencies' predecessors my authority for extending my good offices in this empire to Peruvian citizens. I had supposed it assented to and allowed by your government, but by your note of to-day, and, further, by information derived from my interpreter, I learn that my right to this act is questioned.

I now have the honor to inclose to your excellencies a copy of a dispatch received by me from the honorable Secretary of State of the United States, requesting me to so act, and I beg your excellencies to make known to me if there is any, and, if so, what, objection on your part to my acting for Peruvian interests to the extent suggested.

I have, &c.,

C. E. DE LONG.

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[Inclosure 8.—Translation.]

Soyeshima Tane-omi to Mr. De Long.

FOREIGN OFFICE,
Tokei, the 19th of 8th month of the 5th year Meiji.

I have the honor to acknowledge the receipt of your excellency's letter of September 3, 1872. In your note of June 21, 1870, you stated that you had been instructed by your government to attend to any matter that might be intrusted to your charge by the government of Peru.

It did not appear, however, that the government of Peru had then intrusted any matter to your charge, or even that it had requested the United States to lend the services of their minister.

Having now been favored with a copy of Mr. Fish's instructions to you, inclosed in the note to which this is a reply, I take pleasure in saying:

That the desire of the republic of Peru that you should extend your good offices to its citizens in this empire being now clearly made known, the government of His Majesty the Emperor has no objections whatever to your acting for Peruvian interests to the extent suggested. In the year 1867 several if not all of the European governments withdrew their diplomatic representatives from Mexico, and desired that the minister of the United States should be charged with the protection of the interests of their respective subjects.

The American and the Mexican governments consented that the American should accept the trust confided to him.

The manner in which he was to act is stated in a letter to the American minister from the Mexican minister of foreign relations in these words, which I copy from the diplomatic correspondence of the United States, courteously presented to the gwainusho by the Department of State.

"The government of Mexico, desiring to avoid all danger of disturbance of its friendly relations with the United States, feels that it would be better that you should not interpose any mediation of an official character in the instances in which the subjects of France and Belgium might desire to promote their interests. But should you wish to interpose your good offices privately, the government will attend to them with all possible consideration."

The Mexican minister of foreign relations subsequently adopted the same language in regard to the good offices for French and Prussian subjects. The mode of conduct described in the above extract having had the approval of so many governments, I do not hesitate to adopt the language of the Mexican minister in the present case.

It is to be understood that citizens of Peru who voluntarily come into the territories of Japan submit themselves in all respects to the laws and to the tribunals of this empire.

They will none the less be treated with justice and humanity.

It may even happen that they will be regarded more favorably than other foreigners who betray distrust by insisting upon being under the jurisdiction of their respective consuls.

With respect, &c.,

SOYESHIMA TANE-OMI.

[Inclosure 9.—Translation.]

Soyeshmia Tane-omi to Mr. De Long.

FOREIGN OFFICE,
Tokin, the 25th of the 8th month of the 5th year Meiji.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of September 3, 1872. In your note of June 21, 1870, you stated that you had been instructed by your Government to attend to any matter that might be intrusted to your charge by the government of Peru. It did not appear, however, that the government of Peru had then intrusted any matter to your charge, or even that it had requested the United States to lend the services of their minister.

Having now been favored with a copy of Mr. Fish's instructions, inclosed in the note to which this is a reply, I take pleasure in saying that the desire of the republic of Peru that you should extend your good offices to its citizens in this empire being now clearly made known, the government of His Majesty the Emperor has no objection whatever to your acting for Peruvian interests to the extent suggested.

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States should be charged with the protection of the interests of their respective subjects. The American and the Mexican governments consented that the American should accept the trust confided in him. The manner in which he was to act is stated in a letter to the American minister from the Mexican minister of foreign relations in these words, which I copy from the diplomatic correspondence of the United States, courteously forwarded to the gwaimusho by the Department of State:

"The government of Mexico, desiring to avoid all danger of disturbance of its friendly relations with the United States, feels that it would be better that you should not interpose any mediation of an official character in the instances in which the subjects of France and Belgium might desire to promote their interests. But should you wish to interpose your good offices privately the government will attend to them with all possible consideration."

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The mode of conduct described in the above extract having had the approval of so many governments, I do not hesitate to adopt the language of the Mexican minister in the present case.

It is to be understood that citizens of Peru who voluntarily come into the territories of Japan submit themselves in all respects to the laws and to the tribunals of this empire. They will none the less be treated with justice and humanity. It may even happen that they will obtain favor unexpectedly.

With respect, &c.,

SOYESHIMA TANE-OMI.

[Inclosure 10.]

Mr. De Long to the minister of foreign affairs, Lima, Peru.

No. 86.] UNITED STATES LEGATION,
Yokohama, Japan, August 19, 1872.

SIR: In the month of May, A. D. 1871, I received a dispatch from the Hon. Secretary of State of the United States advising me that on the 18th of March, 1870, your excellency, on behalf of your government, requested the United States Government to permit its ministers in China and Japan to act as the ministers of Peru with those governments respectively, and further stating "that in view of the friendly relations existing between the United States and Peru I will consequently thank you to attend to any matters which may be intrusted to your charge by the government of that republic, so far as this can be done compatibly with other instructions from this Department. (Inclosure No. 1.)

On the 20th of June I replied to that dispatch, accepting the trust for your government, (inclosure No. 2,) and immediately afterward I called at the foreign office in Yedo and notified the ministers of foreign affairs of the purport of this correspondence. By a dispatch, dated November 17, 1870, addressed to your excellency, I also notified you of this request of the Secretary of State of the United States and of my reply thereto. In the same communication I tendered my services to your government to negotiate a treaty between the governments of Peru and Japan, and of the absence of any difficulty in securing it. (Inclosure No. 3.)

On the 12th November, 1870, I addressed a note to the ministers of foreign affairs of this empire (inclosure No. 4) in reply to a note received by me that same day from them (inclosure No. 5) relative to a vessel, the bark Cayatte, in which note I advised them, in writing, of my representative capacity for Peru, and claimed that vessel as Peruvian property. By a note addressed to you, of date November 22, 1870, I advised you about this vessel and asked instructions relative thereto. (Inclosure No. 6.)

On the same date I inclosed and forwarded both of the foregoing dispatches to your consul-general in San Francisco, accompanying the same with a note to him informing him of my official character; that the dispatches inclosed were upon official business connected with his government, and requesting him to forward the same to you. (Inclosure No. 7.) In due course of mail I received from Mr. Federico de la Fuento a reply acknowledging the receipt of the letters and promising to forward the same to you by the first opportunity. (Inclosure No. 8.) From none of these communications to your office have I ever received any reply or acknowledgment, which inclines my mind to the belief that they were never received.

The Maria Luz, a Peruvian bark en route from Macao to Callao, having been driven into this port by stress of weather, is now detained here by the Japanese authorities pending some investigations that are being made relative to some charges that have been preferred against her captain. At the time of her arrival, and when these proceedings were commenced, I was absent, and Mr. C. O. Shepard, the chargé d'affaires

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for the United States Government in Japan, in view of the instructions issued by the honorable Secretary of State of the United States relative to the coolie trade, deemed it incompatible therewith for him to extend any aid or assistance to the officers or crew of this vessel on account of the business they were engaged in, and Captain Heriero had applied to and obtained the counsel and assistance of H. E. Señor Tibrucio Rodriguez y Munoz, chargé d'affaires in Japan for Spain, with whom I have co-operated to the extent of urging upon the Japanese officials the propriety of giving the captain and his officers a fair, speedy, and a public trial, upon the charges preferred against them. I have also urged upon them the very great desirability of their acting justly in view of the friendly relations existing between Peru and their own country. I am watching the proceeding with close attention, and when the investigation is concluded and a judgment rendered, I will, by the first opportunity, advise you fully relative thereto. To this extent I have deemed it my duty and privilege to go.

Trusting to your excellency's kind approval of my action, I have, &c.,

C. E. DE LONG.

[Inclosure 11.]

Mr. De Long to the minister of foreign affairs, Lima, Peru.

No. 97.] UNITED STATES LEGATION, JAPAN, *September* 5, 1872.

SIR: Since the date of my last advices to you the proceedings in the Kencho here have been concluded and a judgment rendered, a copy of which I send you. (Inclosure No. 1.)

After the rendition of this judgment the captain applied in writing to have his Chinese passengers returned to his vessel by these authorities, who had brought them ashore as witnesses. (Inclosure No. 2.)

To this request the Kencho replied, refusing the same, and admitting the holding of the Chinese in Japanese custody. (Inclosure No. 4.)

The captain then addressed me, soliciting my assistance. (Inclosure No. 4, *bis.*)

Upon receipt of this I addressed the foreign office of this government in his behalf, requesting to know if these proceedings had been had with the knowledge and consent of the Japanese government, if it approved the same, calling for a copy of the record of the action, that I might advise your government thereof, and further asking them to advise me as to the law or authority upon or under which these proceedings were taken.

To this note I received a reply certainly very equivocal in its nature, refusing to recognize my right to ask for such advices on behalf of your government, but advising me, as the representative of the United States, that the proceedings were authorized, and the judgment and subsequent proceedings affirmed by the central government; also granting my request for copies of the record of the court's proceedings. (Inclosure No. 5.)

As their excellencies questioned my authority to be heard in this matter on your behalf, I replied, inclosing to them a copy of the dispatch received from the honorable the Secretary of State of the United States, directing me, as requested by your government, to act in this empire as Peruvian minister, and requesting their excellencies to recognize me as such or advise me of their reasons for refusing so to do. To this note I have not as yet received any reply.

I have thus far received from them a copy of the judgment, copy of the letter of H. B. M.'s chargé d'affaires in this empire, upon which these proceedings were based, (inclosure No. 5,) and copies of the ship's papers, passports, &c., offered in evidence on the trial, (inclosure No. 3,) also the record of the testimony taken, but the latter I received too late to be able to furnish you with a copy of the same by this mail, but I will forward it by the next with a copy of the reply of the foreign office to my unanswered note.

Trusting to your excellency's approval of my action, I have, &c.,

C. E. DE LONG.

[Inclosure 12.—From the Japanese Gazette.]

YOKOHAMA, JAPAN, *September* 18, 1872.

In the Sabansho, before his excellency Oye Tak, governor, this day.

Heriero vs. *Chinese.*—This was a suit to compel the fulfillment of the contract by certain Chinese on board the Maria Luz.

Mr. Dickens appeared for plaintiff, Mr. Davidson for defendants.

Plaintiff prayed that the Chinese be ordered to pay an indemnity for non-fulfillment of contract and cost of the ship's delay, or be forced to re-embark and proceed to Peru. Defendants alleged the contracts were null and void, and fraud, force, and fear exer-

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cised to obtain their persons; unjust confinement, ill-treatment, insufficient food, so that health and life were endangered, and extortion against the terms of the charter-party; that it was not within the province of the court to enforce specific performance of the contract, which was *contra bonos mores*, and ought not to be enforced, and was in violation of the law and China, and *ab initio* bad.

Mr. Davidson, addressing the court, said there were points which arose as the pleadings, points of law and questions of fact, and when Mr. Dickens had ended his arguments on the two first, and produced evidence of his facts, he would reply. In one case, that of Low Chong, however, a question arose as to whether the captain was the proper agent of Armero, who was, however, expected hourly by the French mail. The arguments would be nearly the same in all cases.

Mr. Dickens then arose and observed that the facts of this case were already before the court in the pleadings. He was instructed by representatives of Portugal and the other powers interested in the case of the Maria Luz, to demand that the cases be heard by a court constituted, in accordance with the fourth section of the convention of Yedo, dated 28th September, 1867, of the governor, acting with the advice and assistance of the municipal director and such as he may obtain of the foreign consuls. He asked if the court was or was not so composed before which this case was to be heard.

Mr. Davidson observed, on this, that it was a recommendation and not a concluded convention. In the second place, it was not in the power of any representative of a treaty power to occupy a place on the bench sitting on subjects concerning non-treaty powers whose citizens were subject to the jurisdiction of Japanese authority alone. Foreign ministers, if sitting on the bench, would exceed their powers and involve themselves. Thirdly, the fourth section of the convention was simply a consent that whenever the government should try cases of this it might do so with the assistance of the foreign consuls. It simply said "may." If the governor chose to do so, he may ask the consuls to give him advice if they choose. So the only conclusion to be come to was that the foreign consuls might give advice, and then only when the governor asked them to.

Mr. Dickens replied that the recommendation was agreed to and became binding upon them. In proof of that he would inquire of the British consul and his predecessor whether that recommendation had not been adopted and had not become binding. He thought it was impossible for language to be plainer. It was such advice and assistance as he "may" obtain, and this meant such advice as he possibly could obtain. He therefore asked the Kencho to direct that a proper court be established in accordance with section 4, and the case be adjourned to be heard before that court.

The governor said the foreign department had ordered him to proceed with the case.

Mr. Dickens handed in a written protest, and the case proceeded.

Mr. Dickens then went on with his argument, referring to the case of the F. A. Palmer, which had come in port in a lamentable state, with several deaths on board, yet no investigation took place; its passengers were not landed at all, and when landed, from motives of humanity were kept under surveillance, and finally returned to the ship. He felt entitled to ask that the same hospitality should be extended to the Maria Luz as was shown to the F. A. Palmer. As to the contracts, it was not necessary to read them or explain their nature more than was explained in the petition. They were genuine contracts, viséd and authenticated by the proper authorities, and there was evidence from the authorities of Macao to prove the contracts were regular. He therefore submitted that the burden of proving they were not genuine would rest with the opposite side rather than him. The validity of a contract was dependent on its validity at the place where it was made, and he asserted they were according to Portuguese law, though a question might arise whether their validity was not to be judged by Peruvian law. The contracts were made between Portuguese subjects and Peruvian subjects, at Macao. He argued that they were as enforceable as those articles of agreement which sailors signed. A ship-master had power to enforce by force the work of his sailors. The cooly trade was carried on by the English from the East Indies, and still carried on by England, France, Portugal, and Peru. It was therefore not without the pale of international law. Of course it might be cruelly carried on; but the regulations of the Portuguese government provided that the sum of $1,000 was to be deposited by the captain of every Chinese passenger-ship from Macao to Peru, which would be forfeited in case of cruelty. The F. A. Palmer was cleared from Hong-Kong; and as these proceedings had been instituted at the instance of the British minister, he therefore thought that fact was worthy of notice. The contracts made had nothing to do with China in a legal sense, but with a Portuguese colony, and must be governed by the laws of place where each was made. But by the Chinese code of Taout-Sing-Lao-Lee, in the fifth division of Hiu-Poo, it was provided slaves should be punished as parricides who slew their masters, and in the next section parents were permitted to sell their children, except to magicians. This showed that Chinese law permitted slavery. The last point was if contracts, if valid in the land where made, were enforceable according to the custom of Japan. On that part he would say that contracts of worse nature were daily enforced by the government, the latter punishing laborers hired at

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less than market prices. Lately, a number of unwilling emigrants were sent to Yesso, and a certain proportion of labor they were to render to the person nominated. He had a much stronger case within the knowledge of the court, for the rendering of service the most disgusting that any human being could perform, for terms of six, eight, and ten years, and often with minors. He referred to the prostitution contracts, authorized and administered by the Japanese government, as set forth by Dr. Newton, who appeared to have regarded the system with favor, as the least of many evils.

He quoted from this "the indentures of a prostitute for a term of years." These were specifically enforceable. If the girl ran away, she must be discovered and returned, the right to her services was assignable, and the document legally bound her for the term specified. He here read the copy of an actual contract. The court ruled it was not necessary to read it.

In answer to Mr. Davidson Mr. Dickens stated it was not stamped with the government seal, but he would proceed to show how the government intermeddled in it. Those contracts were between government authorities or not. He would say they were. At signature a stamp duty was paid to the government, and the Yoshiwarra was under the direct supervision of the government officers, who daily and hourly lent their aid to enforce them, the gates being guarded and the very liberty of ingress and egress denied girls. Abortion was permitted and practiced, and brothel-keepers looked on as very good citizens. This showed what the custom was, and that only could be gone on—a kind of common law instead of common law. They might be punished and tortured for insubordination and refusal to receive men. In view of this, how could contracts giving the Chinese the same rights as Peruvian citizens be looked on as illegal? In this view contracts for work and service were specifically enforceable. With regard to the points of fact. The defendant in his answer first denied that Heriero was the agent of Armero, and then acknowledged that he was. The contracts were genuine, valid, and enforceable by Japanese customs. In the answer, it was asserted, first, that the contracts were never entered into; and, if entered into, then that they were voided by fraud. He did not see how those statements were justified at all; but asserted that the contracts were duly entered into; that the passengers embarked of their own free will on board the ship, knowing perfectly well what their destination was; and being assembled on two successive days, had the contracts read out and explained to them by three Chinese interpreters of the various dialects used. Hence, they had full opportunity of stating whether they had been decoyed or kidnapped. On the third day the contracts were signed by them before the proper authorities; not only that, but before the ship sailed the proper officer came on board the ship and afforded them all an opportunity of making any reclamation. They saw there was sufficient space, and that the ship was well found, and for any breach of the regulations the captain was punishable. The examination of the coolies and the signature of the contracts took place at Macao, in the superintendency on shore. During the voyage the passengers on the whole, were contented and happy. The only instances of punishment were these: 12th June one coolie put in irons for selling tea at $1 per tin; on another day, eleven, for having concocted a plot to assassinate the master and crew of the vessel. This was not joined in by the rest of the passengers. It must be remembered that South China is infested by pirates, and from time to time a certain number of these piratical Chinese are to be found; but ninety-nine out of a hundred are always contented and tranquil, so long as left alone. With those exceptions, no punishments were inflicted on the passengers between Macao and this port; and there was no matter to justify the detention of the captain for offenses alleged to have been committed on the high sea, and the proceedings were entirely illegal, in which view every foreign representative in the place concurred expressly or tacitly. The passengers were fully provided with food. There were 230 on board, and the daily allowance of food to them was, rice, three piculs, one tin salt or fresh pork, (120 pounds weight,) a tin of pickles, a picul of beans or two of potatoes. Twelve pigs were taken and two oxen. Besides, once a week each man was allowed an egg, and every day each could have as much tea as he liked, for which the daily average of water was from 200 to 240 gallons. There were 321 piculs of rice on board, being the anticipated allowance for 100 days. Chinese wine, tobacco, oil, and lemon-juice were put on board, and everything as in English emigrant ships, allowing for the difference between Chinese and European passengers. On the ship arriving in Yokohama on July 9, and up to the period when the ship was boarded under threat of compulsion, no complaint had been made to the captain, who went round with the mate every night and asked if there were any complaint. No complaint was made until the coolie had swam to the Iron Duke, when the disturbances commenced, and the complainants had every reason to suppose there was a plot on the part of the passengers so to damage the ship as to oblige the captain to put them on shore here, where they supposed there was a chance of bettering themselves much nearer China than Peru was. But for the uncalled-for interference of the British minister, none of the trouble and annoyance would have occurred. With respect to the contract entered into for Awo, by his guardian, he cannot produce Awo to swear he signed it, but could only refer to the contract as genuine, and to the officers

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who saw that contract executed. But if he was not his guardian, Awo had full opportunity of declaring he was not. Many of the statements made at the kencho were simply falsehoods. Several at the superintendency declared themselves to have different names from those they alleged here they bore. He could prove that no contract was signed on board, while their assertions of ill-treatment on board were simply allegations, which the captain denied totally, and would support by the evidence of every individual member of the crew. It is sometimes reproached against the ship that seven deaths took place on board. Let those who cared refer to the year 1834, on the conduct of British emigration: 730 persons died out of those voyaging in seventeen ships in one year between Liverpool and America. He held it was with very bad grace indeed that England mixed herself up to interfere against a vessel driven into a Japanese port, and requiring no assistance other than was privately to be paid for. Were any passengers harshly treated, then it might perhaps have come under the notice of the Japanese authorities; but the only punishments inflicted on board were those which he had enumerated—one for an instance of extortion, while the other was for an attempted act of piracy, while their appearance showed they certainly had not been ill-treated. The reporters for the newspaper were unanimous in their admiration (!) of the system pursued on board, and an experienced surveyor stated the accommodation was superior to that of many English emigrant ships. With regard to the question of agency, he expected Signor Arnero hourly, otherwise he would show that Captain Heriero was morally, if not actually in law qualified as Arnero's agent.

Mr. Dickens then applied for an adjournment to procure a Spanish interpreter.

The court placed its interpreter at his service. Mr. Dickens said the captain could not understand him. The interpreter said he had been three years in Spain and could always make Spaniards understand.

The court decided to try him.

Mr. Dickens was about to ask questions of the witness.

Mr. Davidson objected; saying he ought to be put on oath.

Mr. Dickens objected, as the witnesses against him had not; besides, he might have religious objections.

Mr. Davidson. I should think he had; the former was only an inquiry, but this is a new trial, and the procedure on this occasion will serve as a precedent on others.

The court decided to administer the oath.

Mr. Dickens said he had religious objections to being sworn by the Japanese government.

The governor then ordered him to be told that he must make a true statement.

Captain Heriero deposed: I am a lieutenant in the Peruvian navy. I have commanded six Chinese emigrant ships from Macao, and am well acquainted with the regulations of the Portuguese government relating to those ships. The contracts now in court are similar to the contracts made with passengers on other vessels. I have never been fined for breach of regulations. The Maria Luz is not as large and well found as any other vessel I have commanded. I have been in both larger and smaller. None of the contracts were signed on board; all were signed on shore in the superintendency; I was not present when they were signed. I did not inflict punishment whilst on board more than twice, from leaving Macao to coming here. I received no complaints during the voyage from the passengers. I went round the ship daily. If any passenger had wanted to complain to me he could have done so easily. There was an interpreter on board. The food of the passengers was better than the food of the crew. The Chinese never complained of want of water. There were no symptoms during the voyage of a want of water. They always got water in tins. They could get water at all times; 220 gallons a day were used by the ship. They never took water, but always tea. None of the passengers, at any time, told me they had been kidnapped, nor was there any report, I heard of, during the voyage that any of them had been kidnapped, nor have I any reason to believe any were. I never confined any passengers without just cause, nor did I ever beat any passenger badly. They all got sufficient food, and had enough to throw overboard. They did not throw it over because it was bad, but because it was too much to eat.

Witness Heriero continued: Nothing occurred on board to endanger the life or health of any Chinese. I never extorted money from any one. I never took any money from them, nor did any one by my order. Complaint has been made to me of the cook, No. 96, doing so, and I put him in irons. I fulfilled the terms of the charter-party with Signor Armero. I have never rendered it impossible for any cooly to return on board the ship. I do not know in what way it will be dangerous for any cooly to go on board. I had a Chinese doctor on board. There have not been many ill at a time—very few: five or six at a time—never more, except when they were sea-sick, which at some times would be more than at others. The passengers did not appear to be uncomfortable or miserable on board until they got to Yokohama. They passed the time card-playing, smoking, and drinking. They were not ill-humored. After arriving at Yokohama they became discontented, after the one who jumped overboard was returned. I do not know the reason why he did. He had not been ill-treated nor punished. I put into

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port because I was forced by stress of weather. No others jumped overboard, nor did any of the passengers in any way try to get out of the ship before he did, while in Yokohama.

Mr. Dickens. He is justified by the regulations in preventing the coolies from leaving the ship.

Mr. Davidson objected, as they were not in evidence.

Mr. Dickens said the regulations were in court.

Mr. Hill said that they had been sent to the foreign office, at Yedo.

Witness continued: I do not remember the British minister boarding my ship. I was not on board, and the mate was in charge of the ship. I am well acquainted with the trade between China and Peru. I do not know that the trade is carried on in a cruel manner. I do not know of any complaints at Macao or Peru of its being carried on in a cruel manner. When the ship arrives at Peru, an officer comes on board, and asks if there is any complaint made by the coolies. I knew of no instance of any captain being punished for cruel treatment. There might be instances, but very seldom. The Chinese authorities had never requested the authorities at Macao to discontinue the trade, to his knowledge. The provisions are served out on board by the mate. The mate's book is correct. All the passengers were "stout" when they came on board in Macao.

Cross-examined by Mr. Davidson: My government is aware I am engaged in this trade. There is no penalty attached to an officer of the Peruvian navy engaging in this trade. The superintendent gets the coolies on board this ship when I go to Macao. I do not employ any one to get them to come to the superintendency. The barracoon men get them. They are Portuguese and Chinese. I do not employ them to make the contracts. The Portuguese government employed them. I was only there to get these men. My agent, Armero, in Macao, made the contract. I do not employ agents in Canton to bring coolies down, or in other parts of the country, nor do I know how much is paid to the people who bring these men. I have seen receipts for sums paid them. Different men bring the coolies for their money. I do not employ these men. Armero pays them their money. I did not see any contract signed on board; only saw those of the twelve boys signed at the superintendency. I saw them all. Their families brought the boys—some were brought by the father, brother, or mother. I gave money to them—$45 or $50 for each. I engaged these twelve boys for myself. I am entitled, under my agreement, to take these boys on my own account. It is not in the charter-party; it is forbidden there. I am to pay for their food and voyage. I have provided separate food for them. I have not the written consent of Armero to this. I have not it here. I did not have it. I do not think Armero would be surprised if he knew of it. He has been on board and seen the boys. I bring back from Peru to Macao sometimes guano, sometimes nothing. I have been five years and a half in the traffic. I have brought back seventy, another time fifteen, in the last ship I brought back five; I should think, altogether, one hundred and thirty. I have taken, altogether, from Macao to Peru, about three thousand. The Chinamen paid their passage. When they arrive at Peru, I deliver them to the person named in the paper. They have to do the work specified in the contract—nothing else. The contract says if a cooly is compelled to work beyond contract time, he can proceed according to Peruvian law. That means he has the same right as a Peruvian. I am not a lawyer, and don't know what that means.

The last clause of the contract says that both parties understand the contract, which says that disputes shall be settled by Peruvian law. Six coolies died between Macao and here, and one in Yokohama. I went round the ship daily. I went down sometimes among the coolies in the hold at night; sometimes at day-time; sometimes I would go four times a day; sometimes not at all. They were kept between decks; they were not locked in; the hatches were barred; a grating was on them; they could come out to the water-closet; they could come out at any time they pleased. During the day all might come on deck at once. I knew that by my charter-party only one-third could be on deck at a time. They have never been on deck all at once; they could come and go as they pleased; they were never locked up at all during the day, between Macao and Yokohama.

THURSDAY, *September* 19.

Captain Heriero's cross-examination continued:

I was on board the Maria Luz when the coolies were brought on board. They were not all brought at the same time; the first time 170 came, next the others; they were marched down from the superintendency to the boats in charge of the officers of the superintendency; they were locked up at night on the voyage, because I did not want them on deck. There are three doors to the hold. The coolies went down by a ladder into it. There are fourteen windows to the hold. I only punished twice on the voyage, for selling tea, and because of the revolution on board. I did not beat the man who sold the tea. I have used a rattan to the men, when they wanted a second time to make a revolution on board. This was on the 10th June. I put the conspirators that time in irons, till distress of weather, for thirteen or fourteen days. They

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were kept in irons at night—in any place that suited, sometimes below, sometimes on deck. They could go where they liked with the irons on. They were not fixed up to an iron rod about six feet long. I did not use that for these men. They were chained in couples, and the chain was passed over the iron rod. It was not fixed. They could walk about. We used 220 or 230 gallons of water daily. I had on board 38,000 gallons. I was twenty-eight days coming from Macao to here. I anchored so far from the shore because I liked it. I was told by the harbor-master to come in nearer shore. I knew it was the typhoon season. I do not know which coolie is meant if you mention his number. No coolies tried to escape at Macao. When marched on board they were put down in the hold at once. None of them were ironed then; they were not locked in then. A watch was put over them; the whole of the crew kept watch. One or two or three men were down below showing their places and bedding. There were no men watching the coolies. None were armed. No coolie ever attempted to escape. I think they were looking forward with pleasure to go on. Where Peru is was already explained to them on shore. I am surprised they are not eager and anxious to get on board that ship now. I am perfectly astonished. I have never knocked a coolie down. I have never struck a coolie with a rattan. I have cut off three queues, because the coolie escaped. I only ordered them to be beaten with a rattan on two occasions already mentioned. Fifteen or twenty jumped overboard here in Yokohama. I never threatened to shoot any of them with a pistol. I never said before a witness, *I would have to kill six or seven of them again after I left this port.* I do not remember saying that on board my own ship in presence of Mr. Hill and another gentleman. I did not say that I would murder anybody. I did not say I would kill anybody. If the Chinamen tried to kill the people on board first I would have to kill the Chinamen. I never killed any coolie on my voyage in self-defense, nor have I ever ordered any to be killed, nor ever heard of any ever being killed. I never saw any ship fired because the coolies could not stay on board. I have heard of such things. I do not know the reason for the conspiracy on board the Maria Luz. The coolies were well treated. They were perfectly happy and contented. The commanders of these ships are not generally taken from the Peruvian navy. They are of all classes and nationalities. I am not the only man in that navy engaged in that trade; one or two more are; not more.

Mr. Davidson. I am glad to hear it, for the honor of the navy.

Re-examined: My government never objected to my being engaged in the trade The boys engaged by me were willing to go. I cannot transfer their services to any other person. Armero said he had no objection to their being on board. The passengers are under Peruvian protection, and also under Portuguese protection. When at Peru the Peruvian officials and Portuguese consul board the ship and ask the coolies if they have been well treated. They are then transferred to a government ship, and then to the shore, where there are more than twenty places to receive them kept by the agents of the Peruvian government. There are four hatches on the ship and four ladders. The hatches are open all night, and besides them there are six ventilating openings. None of the crew were armed. When the coolies came on board they were not thrust down, but went down of their own accord. There were policemen on board to see that no violence was used. The officer of the port went round the ship with the captain, and saw every coolie on board. No complaints were made to him. The provisions were good and remained so. In South China there are many piratical villages, and some of the inhabitants might have obtained a place on board, and be among my passengers. I have more than 3 or 4 of them. It is true that 15 or 20 men jumped over in Yokohama. I sent a boat after them, and fetched them back. I met Mr. Hill in an eating-house in Yokohama some time since. Mr. Hill threatened me with cutting my head off, but not the heads of the crew. He said so seriously, and said I had better get away at once. I believe it was not in joke. I do not believe Mr. Hill looks like a person given to joking. I don't know if Mr. Hill spoke as if he had the authority of the Kencho. Mr. Hill did not say this case would make him (Mr. Hill famous. He said it would make the Japanese government famous. I do not remember Mr. Hill said that this thing would be heard of in the year 2000. He said it would be heard of in every place and every country.

Mr. Dickens. Coupled with the name of Mr. Hill, I suppose.

Captain Heriero. I don't know that. I understood it was wished I should leave with my ship, and not trouble myself any more about the coolies on board. This is my opinion only.

Mr. Hill was about to ask the witness some questions, when

Mr. Dickens said: I must protest against Mr. Hill putting any questions whatever. The questions must only be put by the court or by the consuls present. I don't recognize Mr. Hill as anything more than adviser to the court. Mr. Hill is a private practitioner here, and for aught I know he may have some interest in matters connected with the case, and it would not be fair for him to be allowed to put questions of his own motion.

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The governor, (through Interpreter Wills.) Mr. Hill is putting these questions for the court.

Mr. Dickens. Then every question ought to pass through the court.

Examined by Mr. Hill, (the questions being translated to the governor before being asked the witness by the interpreter.) There were four openings from the deck down which a man could go where the coolies were. When those 13 or 14 men jumped overboard there was no force used in making them return to the ship. I was on board when they jumped off. They did not swim back. Altogether so many jumped overboard I cannot count how many. Those who came in the boat were eight. The most that went over at any one time, so far as I remember, was 8 or 10. I could not count when they jumped. The captain's boat brought them back. I did not let my boat take them on shore. None of them were punished afterwards. They were not put in irons or confinement. I do not know whether the passengers are domiciled at Macao or at outside villages. I do not know the register numbers of the coolies who jumped overboard. It is not noted in the log-book. I could not recognize those who escaped if brought here now. I might perhaps one or two. At the conversations which occurred between Mr. Hill and myself in town there was a witness, but whom I don't know; perhaps he would know better. It was not Mr. Hyashi. It happened in the saloon at 55, and took place a few days after the decision given in the other case, during dinner-time. About how much per head is generally paid for coolies to bring them to Macao, I don't know. I don't know whether they come from Macao or not.

James Brown warned: "Any evidence you shall give in this case in this court must be the truth and nothing but the truth, under penalty of perjury."

Examined by Mr. Dickens: I am carpenter of the Maria Luz. I have never seen or heard of any passegner being ill-treated by the captain or crew. I was on board when they came in the ship at Macao. I never heard any complaint from the coolies. Before she left, the captain of the court, the Peruvian consul, and others came on board and said it was properly ventilated and care taken of the coolies. They had fish, onions, garlic, potatoes, turnips, and pork. Their food was equal to that of the crew and sometimes better. They were between decks and occupied nearly the whole of the decks. They were as well lodged as the crew; if anything, better. They were on deck during the day, and at night-time whenever required. There were four hatchways and two other openings for free passage of air, and six ventilators. There were six ports, three each side. I have seen them punished for trying to raise a rebellion, and the cook punished for selling tea. It was not a very severe punishment. They were flogged on the breech with a rattan by their own men about 20 blows. They were put in irons, two and two together. They did not appear miserable. At night-time, from 6 to 8, they would be "skylarking, showing their science." I have sailed in coolie-ships from Hong-Kong to San Francisco. They were not allowed to leave the ship in the harbor. That ship was not near so good as the Maria Luz. I think the accommodation for coolies on board the Maria Luz far superior to that for emigrants on merchant-vessels from England to New York, and their food more abundant and superior. I was on board when H. B. M.'s chargé d'affaires came on board. He came in an unarmed man-of-war's boat. The lieutenant in the boat was not armed. I was on deck. He went down below. What occurred there I don't know.

Cross-examined: The vessel I was on board was an American vessel. I am well-treated; that's all I care about. If circumstances suited me I would go to Peru. As long as I earn good money that's all I require. I am not aware I might be kicked about from one master to another. Seven or eight gangs of coolies were brought on board. Portuguese brought them in barges, each containing, perhaps, 30 or 40 coolies. They were searched, and then they went down peaceably between decks. I think they got up the same night on deck. A great many played on drums and fiddles. I did not put any in irons that day. I did afterwards—perhaps a week or a fortnight. I did not know what was the cause of the revolution. I never struck nor beat them with a rattan or rope's-end. I do not know that anybody sold the coolies water except the Chinese who was punished. I do not know what has become of each man's $8. I did not receive any of it. They bought cakes, fruits, and shoes here. None tried to escape at Macao. Here seven or eight jumped over altogether one night. The irons were riveted on these men. They were kept on all night. I never complained about my food on board that ship. I lived in the cabin, same as the captain. The coolies did not live better than us; better than seamen. They were all happy and comfortable till the man was brought back from the Iron Duke and poisoned the others' minds.

Examined by the court through Mr. Hill: The captain of any ship may prevent any sailor from leaving the ship by force. I cannot say if he can any other class of persons.

William McDonald, warned to speak the truth: I have been master of a ship, and am now surveyor of ships. I visited the Maria Luz to satisfy myself, out of curiosity, having seen certain articles in the newspapers. I found her lumbered about the decks as any ship fitting out would be. I went between decks, and found them cool, airy,

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and well ventilated in every way, and the passengers seemed to be comfortable. I would not say she was equal to emigrant-ships at the present day, but she was equal to some I have formerly seen, and equal to any India and China ship engaged in the coolie trade I have seen. I came away favorably impressed. This was immediately after the second article appeared in the Japan Mail.

F. Bevill, warned to speak the truth, said: I am sub-editor of the Japan Mail. I cannot remember what date I visited the ship. I went round below between decks. Appearances struck me as being very favorable, much better than an emigrant-ship I was once in myself. I saw the coolies below. I saw no "blood-thirsty ruffians" watching them. The head men were down below. I thought they were well fed and healthy. I was once, in 1864 or 1865, 39 or 40 days from Liverpool to New York in a 1300-ton ship. She carried cargo. One adult and about fifteen children died on the passage. The officers and crew did not behave badly, except in the matter of food, concerning which there were constant complaints. The place was abominably dirty and no endeavor was made to keep it clean. Whereas the Maria Luz was clean. There was not much illness on board. I believe no complaints were made on arrival at New York. They chiefly complained of the food and cooking. I have known the captain of a steamer use authority over a first-class passenger, whom the captain kept on board because he had not paid his passage. He paid his money and went ashore. My visit was before Mr. Watson had visited her. I went with Mr. Kent. We had not a letter to the captain. We introduced ourselves to the captain.

Captain Purvis, warned, said: I went on board the Maria Luz the first day she was in. I went round her where the coolies were, and saw the ship was clean, and particularly contrasted her with the F. A. Palmer's state. I have been on board often since, and never found any difference in her state except that her decks were lumbered. The coolies struck me as being particularly healthy. I asked, as far as I was able to, if there were any complaints. I never heard of any complaint till after the man swam to the Iron Duke. I have heard of a captain confining a first-class passenger in irons, and confining others to their cabin. He has full power, for the safety of the ship, to interfere with the liberty of a passenger. An uproarious or quarrelsome man I should warn and then confine to his cabin if he persisted. Men-of-war carry the same irons as this cooly-ship.

Cross-examined: I saw no appearance of any hatches anywhere. The fore main hatches and booby hatches were perfectly open and the after hatch covered with white meshed netting. There were also holes cut in the deck. Any time I went on board the hatches were not there. The sleeping place of each cooly is larger by 2½ inches to each man than in men-of-war. They sleep on board. The ship is seven feet between decks, and this is divided into two tiers of berths. The ventilation of the Maria Luz is better than that of any man-of-war I have been in for 18 years. I was not on board at night, but I can judge pretty well. Each man has 20 inches of space; he lies with his feet to the side of the ship sleeping athwart-ships. I don't know the average breadth of the Chinese, but more space is thus allowed them than for an Englishman. If Mr. Bevill, Mr. Tellerman, and myself slept in the same bed, we should probably not occupy the same room.

Manoel, a sailor, warned: Never saw nor heard of ill-treatment or any complaints by the coolies. The ship was duly visited at Macao by two officers, accompanied by an interpreter. The food of the Chinese was very good, about the same as his own. The crew were not allowed to beat them. This was his second voyage in a coolie-ship. Both were about equally well fitted.

To the court: He heard the Chinese intended to burn the ship from the interpreter. He had seen the straw they were collecting on board for the purpose of the fire. This was before reaching Yokohama.

W. H. Smith, cautioned: I was formerly an officer in the royal marines, and was during the China war; I had charge of a portion of a cooly corps to assist the British arms. The army employed Chinamen; I don't think it is likely the consent of the Chinese government was asked. They were brought chiefly by placards. They entered into no written contract. They could not leave at any moment they liked. I should have punished any attempting to desert, by flogging or any other way, as I might think proper. This I suppose was with the knowledge of the diplomatic and military authorities. They were all Chinese subjects. According to military law, a man fighting against his own country is liable to death. Sixty of these ran away to the enemy, and fifty-nine had their heads struck off at once. They came from all parts. The advertisements were put up about the colony of Hong-Kong. I only had one interpreter who spoke Cantonese.

Serrano, a Chilian, steward of the Maria Luz, cautioned: Had neither seen nor heard of ill-treatment. He served out provisions and never heard any complaint about them or about water; they were good and abundant. At Macao the officials inspected the ship and passengers. The cooly food was better than his. The crew were not allowed to beat them. They were "all as they like it," playing cards, dominoes, and guitars, and

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were not dejected in appearance. He had sailed in other coolie-ships; they were about the same.

Cross-examined: He gave out water to the men. The Chinamen took water themselves. He did not know what quantity they had; they always had enough. He did not give an account to the captain every day how much he gave out. He had to fill several large vessels daily. Did not know how much they contained.

Examined by the court: He had seen the straw and wood fixed ready to set fire to the vessel. He discovered it after they left Macao. It had not been lighted. He heard it was to be set fire to; whether this was before or after the loss of the masts, he did not know.

Francisco Paul Xavier, interpreter, said he saw the contracts signed in the superintendency. The Chinese were questioned, if they were willing to go to Peru, and said "yes," being questioned on three separate days. He went around with the harbor-master and another interpreter from the shore to ask if any refused to go. He heard of no complaints of ill-treatment. He went among them every day. It was impossible for any contract to be signed on board. He knew the ordinary life of Chinese villagers. They got perhaps one-tenth of the food served out on board. They would earn 20 or 25 cents a month. They could move about freely on board, and were satisfied. Had been in many cooly-ships, but now sailed for the first time from Macao. He knew the man who swam to the Iron Duke. He had not been ill-treated or punished. Did not know his reason for jumping overboard.

Cross-examined: He did not sell food or water or tea to the coolies. He was interpreter. Some were beaten 14 or 15 days after leaving Macao because there was a revolution. Had seen 10 or 11 in irons at a time.

To the court: He understood the Hakow, Punti, and Fokien dialects. There were three interpreters of the superintendency present when the contracts were signed; afterward the governor's seal was stamped, and that of the Peruvian consul. After that the Chinese got their money and clothes. He had never received any money of the Chinese for any purpose, nor had they asked him to keep any. He had only seen the cook sell tea, but had never seen any water sold. The cook was a Chinese, and one of the passengers.

Adjourned till 10 a. m. to-morrow.

FRIDAY, *September* 20.

P. Arcas, mate of the Maria Luz, called, duly cautioned.

To Mr. Dickens: I am a Spaniard. Never saw coolies ill-treated on board; had seen them twice punished, but no more. Heard no complaints about food or water. The officials at Macao and the Peruvian consul were on board previous to leaving. Do not know who was with them. I went round the ship with them. They went all round the ship and asked if there was any complaint, but no complaint was made. An interpreter was with them. The crew were not allowed to beat the Chinamen or sell them anything. The Chinamen, in good weather, could come up all on deck in the day and at night if they wanted. The Chinamen were satisfied on the voyage and happy. The food of the Chinamen was better than that of the crew. Know the man who swam to the Iron Duke; he never was ill-treated or punished. All punishments were put in the log-book that occurred during the voyage, but no account was kept in port. The man that went to the Iron Duke was not punished on his return to the ship. Was on board when the English minister came on board; an English lieutenant was with him, in uniform and armed. The minister asked who was in charge, and the mate said he was, but could not show him round, as he had no permission from the captain. The minister and lieutenant went down below, but not the interpreter. The minister spoke loud, and he replied the same way. The minister spoke English. The minister did not threaten to obtain force to seize the ship from the Japanese. He was on board about a quarter of an hour. The man who swam to the Iron Duke was brought before the minister, who wanted to question him, but he sent the man away and would not allow the questions. The man was sent away between decks. The minister wanted to keep the man.

To Mr. Davidson: The Macao harbor-master and Peruvian consul and an interpreter went round the ship at Macao. Do not speak Chinese, and do not know what questions were asked. On the voyage the Chinese could get on deck when they liked; the hatches were not fastened, and they had not to ask leave to come out. On coming on board they were sent below. No one was put to guard them. Know of no one who was punished but the Chinaman for selling tea, and the money was returned to the Chinaman who had bought the tea. There was plenty of food and tea for all. The Chinaman was willing to buy the tea. The English officer who came on board with the minister had a sword. Refused permission to the interpreter to go below, as he had not leave of the captain. Was on board when others had come on board to see the ship. When the Chinaman came back from the Iron Duke he was not punished. Do not know if his cue was cut off. When the minister came on board it had been cut off. When he returned from the Iron Duke his tail was not cut off. He was not punished, but

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care was taken by two Chinamen not to let him jump overboard again. He was allowed on deck as usual in the day, but one Chinaman was constantly watching him. The English minister's interpreter did not go below, nor did the minister question the passengers. The minister spoke English. The interpreter looked round, and asked if the passengers had enough to eat. They said "yes;" also said there were no prisoners on board. Did not prevent the minister putting any questions. Did not tell the interpreter that the men were not to answer certain questions unless pressed. Seven men died between here and China; do not know what was the matter with them: three or four died of disease and the rest jumped overboard. This was out at sea. They did so as they liked it. The men who died had not been beaten.

To Mr. Dickens: No one else came off on board in the man-of-war's boat but the English minister; did not believe it was the minister at the time. The minister put three or four questions through the interpreter, who answered him; but the interpreter did not question the Chinamen. Did not refuse the minister permission to question the Chinamen until he had been below. Did not prevent him putting questions through the interpreter. The minister tried to question the man who swam to the Iron Duke, but I prevented him. The captain gave Mr. Bevill leave to go round the ship. He was not in a man-of war's boat. Did not say he was a minister or even a consul.

To the court: The man who jumped overboard was a passenger. Prevented him speaking to the minister, as he did not like him to tell what occurred on board without the permission of the captain.

Mr. Dickens objected to the interpreting as being in many cases simply ridiculous.

Mr. Davidson suggested that the answer be written down in Spanish by witness. This was done, and it was, "That without the permission of the captain he did not want any of the passengers to be specially questioned, as he had no permission of the captain." Did this as he liked it. Persons came on board from the shore three or four times.

Mr. Dickens to the court: Mr. Watson asserts in his communication to the foreign department that he menaced this officer that he would obtain leave from the Japanese authorities unless he was allowed to go below, as there was at first much disinclination on his part to let him do so.

Examination continued.

To Mr. Dickens: The British minister showed no authority to come on board and ask questions.

To Mr. Davidson: Did not like the minister to speak to the passengers. Could give no reason for his objection. Had received orders from the captain not to allow any one to question the passengers. This is the first time he had been on board a coolyship; never was in a coolie-ship before. Other ships carried cargo and passengers. It was not the rule of the ship then to prevent persons speaking to the passengers on board.

Chum Ping Him, a Chinese doctor, cautioned: Come from Canton. The coolies on board would not complain to me about provisions. I am a doctor, and have not charge of the food. About 30 or 40 persons were sick during the whole of the voyage. There were about seven serious cases; seven died between Macao and here. Three jumped overboard and four died, three at sea and one in port here. I do not know if the men had enough food or not. It was pretty good food. None of them ever complained of want of food to me. The coolies were many of them farmers, and many from the interior. In China they would receive about $3 or $4 per month. Know two or three of the coolies. Think they would be better off in their villages than on board the ship, as they would then be free and not confined. Have never been to Peru. Did not know the name of the man who jumped overboard and swam to the Iron Duke. I cured the most of the sick in about 10 days. The coolies were not in a good state at first, and had been beaten. Had told the captain they were not strong men. The captain said they must be punished, as they had tried to make a revolution. They were beaten very hard with rattans, and then with a bull's hide; did not see how they were treated; sometimes four or five came on deck in the day. Chinese head-men watched at the hatches, and the coolies had to ask leave to come on deck. I kept in my own room, and do not know if they were miserable or not. A man, if sick, came to my room. When the passengers came on board in Macao, he did not examine them, nor did he afterwards. The seven men who died on the voyage died, one of dropsy, one of general swelling, one of rum, others of pestilence. The general sickness on the voyage was fever and ague. When the men were flogged they were tied up with ropes, and beaten with rattans. The men who were punished were kept in irons till the ship came into harbor, from five or six days after she left Macao. An unlawful weapon had been used to flog them with; but he told the captain it was poisonous, and it was given up for a rattan. The coolies were not allowed to come up when the sun was hot. He had not recommended the captain not to. The men in irons put cloth on to prevent wounds from the irons. He never saw them forced or sent below. The locks of the irons were opened the day the ship arrived here. He did not think any cases of illness which he treated arose from ill-treatment on board ship. It was very hot below. The men in

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irons could walk with them. Their wrists were not tied. When he came ashore, he went to the grog-shop; he did not see the Chinese guild.

To the court: When the three men jumped overboard on the voyage, they did so at different times. The first one jumped overboard when four or five days out; he did not know on what account. He never talked to the men unless they wanted doctoring. They never tried to save the first man who went over. There was always one ladder kept by which to descend from the deck to the hold; it was in the bow. Did not know whether the captain knew of the men jumping overboard or not. The police on board the ship called out and then he came on deck. The first went over about 8 a. m., another about 3 p. m. When the other went he did not remember. He did not see any attempt to save any one of them.

Mr. Dickens here stated that the Chinese doctor's statements were directly opposite to what he had told him in private.

R. G. Watson, cautioned, said: I am H. B. M.'s chargé d'affaires in Japan. I am interested in the case of the Maria Luz. I have given Mr. Dickens no instructions in regard to that ship. On or about the 1st August, I proceeded on board the ship with a lieutenant of the Iron Duke; I requested permission to go down below; the mate refused permission as the captain was not on board. I mentioned who I was, and said as I was interested in two coolies who had taken protection under the British flag I should make application to the Japanese government to give me authority to visit her. The mate then gave me permission, but would not allow the interpreter. I went down with Lieutenant Dickens. The interpreter was distinctly refused permission to go down. We were only allowed to go on condition we left him on deck. We found many of the coolies debilitated, emaciated, and suffering, and all apparently in a very melancholy and unhappy condition. I asked to see the man who had escaped to the Iron Duke. At first the mate gave instructions to his interpreter that he was to delay me and raise every obstacle in the way that he could, but said that if I insisted on seeing the man he was to be produced. He said this, thinking probably that I did not know the language he spoke in. I did, and of course I insisted, and the man was brought up. He came tottering into the room, scarcely able to stand, and my interpreter said to me, "They have cut off his cue." I said to my interpreter, "Tell him to tell me what they have done since he left the Iron Duke."

The mate jumped violently at the man's collar and flung him violently out of the cabin. That brought the communication to an end, and I went over the side into the boat. The impression on my mind was he had a great deal to conceal, and raised every obstacle he possibly could. I took measurements of the coolies' space. There was 18 inches exactly for each person. I know that the cooly traffic is regarded with great horror in Europe, and it was no later than last year when the English government made vigorous representation to the Portuguese and Peruvian governments on the subject. This was caused by the destruction of the Don Juan, when 500 Macao coolies were left helpless to be burned or smoked or drowned. When Lieutenant Dickins went on board with me he had his uniform on. I don't know if he had his sword on. I went on board as a private person, wishing to see the ship. I was dressed in plain clothes, but told him who I was. I cannot divest myself of my character as British representative. It was not a very hot day. I observed marks about the legs of the men and scrofulous marks. When the man who swam to the Iron Duke was brought he was not there a minute. When he was thrust out of the room he did not fall; he was caught by another man who had supported him in. The berths were marked off and numbered. The majority of the men were in these berths. I do not know that 418 feet would give 21½ inches to each coolie. I measured them with a yard-measure. At first I thought it was less than 18. I have no instructions from the home government to make representations to the government of Japan relative to the coolie trade. I do not know if there are laws in Japan against the coolie trade. She has so recently come into the comity of nations it is only now that precedents are being established. I am aware that the circumstances of the F. A. Palmer did not call for severe investigation. I don't think any one is justified in asking me what my instructions are. I am quite sure that I am acting in accordance with the policy of Her Britannic Majesty's government in pointing out to the Japanese government the view my government take of the cooly trade, which is a very strong one. I am aware that coolie emigration is carried on from English colonies, but under different conditions, and the regulations are so modified it has almost altogether ceased. I never urged the Japanese government to detain the ship of a friendly power. I merely urged them to have an investigation into the circumstances connected with the two coolies who took refuge under the English flag. That is a quotation from my letter: "As I am informed that the Maria Luz is about to leave this port, measures should, I think you will consider, be taken to detain her. Probably this may best be effected by her papers being stopped, but as it is possible every attempt may be made to elude inquiry, steps might, perhaps, be taken to place the ship under surveillance." I meant to detain her after the inquiry had been gone into.

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Re-examined:

My impressions are that the coolie traffic at Hong-Kong stopped in consequence of the restrictions put upon it by the English government.

Mr. Dickens here read one of the coolie contracts, which was put in with Dr. Newton's report on the Yoshiwarra Lock Hospital, a contract concerning one Hura, which the Kencho had declared enforcible in favor of one O-Yoné; the Chinese passenger act and an extract from the China overland trade report was read to show that a coolie contract, agreed on by an international convention, was almost identical with the Portuguese contract.

Mr. Dickens then summed up his evidence.

Case adjourned till to-morrow.

SATURDAY, *September* 21.

Witness BROWN, recalled, stated:

That he could not remember the day he took the men in irons out. It was not on arrival, but about ten days before arrival. The Chinese doctor's cabin was forward.

Captain HERIERO, recalled, said:

The irons were struck off ten days before arrival in port. I was present. I don't remember how much I paid for the little girl. I have the receipt. The numbers of the coolies who jumped over were No. 126 and No. 215. It was nine or ten days before arrival here that the irons were struck off the men in confinement. The date of the revolt was the 8th June. The date of the arrival of the ship in Yokohama was the 10th July. There was another log-book which showed all about the ironing, &c.

Mr. DICKENS. Why did not you show me that book?

Mr. Hill said that the court desired to see it.

Mr. Dickens said he did not propose to put it in evidence.

Mr. Davidson replied that the captain might be asked if he objected to produce it.

Mr. DICKENS. He must object. I object for him.

Mr. Hill said the government considered this was a very important case, and was desirous of examining the matter fully.

The captain refused to produce the book.

The court directed that he should produce it for their examination.

Mr. DICKENS. It is in my possession, and I object to its being taken out of my possession.

Mr. DAVIDSON. The court has power to do it. So have I. I can move for all documents, log-books, and papers in your possession.

Mr. DICKENS. I shall defend the motion. I refuse to put it in, unless it is taken by force, till I have read it. I have not yet read it, and I don't know whether there is anything private in it or not.

Mr. DAVIDSON. You can't take your objection. In a civil court, you know, the plaintiff has only to move that all things in connection with the case shall be produced and it will be granted. This is not a private book; it is a public log-book, and the entries in this very log-book bear upon this very case. Every ship involved in any case of this kind is bound to produce its log-book.

Mr. DICKENS. I object to putting it in. If obliged to do so I shall do it.

Mr. DAVIDSON. I never heard a log-book was a private communication before.

Mr. DICKENS. You hear it now. It's either between the captain and owners or mere private memoranda.

Mr. HILL. Please state shortly what the objection is to producing the book.

Mr. DICKENS. I have not read it, and I can't advise him till I have read it.

Mr. HILL. The court says whether you have read it or not it doesn't matter. It is the log-book of the ship and it must be produced.

Mr. DICKENS. It is either private memoranda, as between the captain and passengers, or it's nothing at all. There may be private matter in it.

Mr. DAVIDSON. It has something to do with the case, since it contains accounts of the men jumping overboard.

Mr. DICKENS. We'll have extracts made.

Mr. DAVIDSON. No, we'll have no extracts; I don't trust the other side sufficiently.

The governor said if it was a private matter he should not wish it put in, but if it was the history of the voyage of the ship it should be produced.

Mr. DICKENS. Even if it was that, it could only be produced at the instance of the proper authorities. It ends with the arrival of the ship in harbor, and the Japanese government have nothing to do with the voyage, or what happened in it.

Mr. DAVIDSON. The question of cruelty has been raised, and you have led evidence on the subject which goes beyond the harbor. Any man who subjects himself to this jurisdiction is bound to submit to its procedure.

Mr. DICKENS. He doesn't submit himself. He is driven into it.

Mr. HILL. The governor says, in these cases, all these books, writings, logs, and

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documents of any kind whatsoever, are handed in for the inspection of the court, as is customary at Japanese law.

Mr. DICKENS. Ask him are there any log-books kept on board Japanese ships?

The GOVERNOR, (through Mr. Hill.) There are.

Mr. DICKENS. I don't put it in, (throwing the book on the table.) There it is. If the court chooses to take it they can do so. I can't prevent them.

The court engaged in consultation, when

Mr. DICKENS observed: In order to put an end to this interruption to the case, I'll put it in.

F. P. XAVIER, Chinese interpreter, recalled:

He never told the captain the men were too ill to be flogged. He never saw any ill after being flogged. He went round the decks every day. The ordinary wages of a Chinese coolie was twenty-five to fifty cents a month. When flogged the few lashes did not affect the men at all. He only counted three or four lashes. He was not present at the flogging.

Captain HERIERO re-examined:

He occasionally put men in irons for a few hours at a time. He was not perfectly sure because he did not perfectly remember. He, himself, never flogged any men. He caused them to be flogged twice.

E. H. HOUSE, called for the defense, stated:

I am a teacher in the Kaiseijo. I saw a report of the case on the 20th September, containing the evidence of Captain Heriero. I observed statements made by him concerning what he had said in my presence. He said, in general words, he believed he would be obliged to kill several of the men, in consequence of the action of the Japanese government, after he left Yokohama; he then thought he would take all the men with him; it might have been six or seven, or several. I was so startled by that statement I requested either Mr. Hill or Mr. Hiyashi should ask again. He repeated the same thing; he said it twice; Mr. Hiyashi and Mr. Hill were there.

Cross-examined:

I went on board of my own accord; I proposed it myself. The captain spoke in English; I teach English; he speaks quite sufficiently well not to make a mistake about a matter like this; I cannot define if he spoke half as well as I can. I don't know anything about your capability; if you cannot understand him, I can. He spoke of that necessity as one of the usual events of his life. I don't propose to give my opinion on how many men he has killed before. From his statement I am of opinion it is one of the usual events of his life, and I am of opinion he would kill men if he was obliged to. If I was obliged to kill a man under any circumstances, I cannot conceive of any circumstances which would oblige me to. The conversation was not on my part; it commenced with Mr. Hill. It seemed to me he was holding a court of inquiry then. I can't tell the first question he asked; he asked many; I can't tell you what the first was; they appeared to be for the purpose of discovering the condition of the men on board. It was a perfectly spontaneous remark on the captain's part, and not made in response to any question. I think it is possible that the captain might apprehend the action of the Kencho would stir up a mutiny. I did not eat or drink anything on board; the captain offered it; I presume the others did so. You needn't say that judge, jury, and accused all hobnobbed together; no, that's an observation of your own.

Re-examined:

I am under impression that this killing Chinese is an ordinary event in the life of such a man, and that he would not scruple to do it.

(To the governor.) I went below in the hold. The men appeared to be in a very terrible condition; I could judge only by their manner and aspect of countenance; I had no doubt they were treated with great cruelty. I could not say as to the space; it struck me as being very small. The smell was such I did not desire to stay there long; the means of ventilation were obviously wrong. When we were on deck there was no entrance possible unless they allowed it; they had to put up a ladder for us to go down; it was brought from below.

Mr. Davidson, in reply, said the F. A. Palmer case had been incorrectly stated by Mr. Dickens. The most violent cases of small-pox existed on board, and she was put in quarantine. After a while a representation was made by Heard & Co. and the coolies were allowed to land, and the charterer of the vessel sent them on per steamer to California. In that case there was no jumping overboard or cruel treatment, starvation, beating, kidnaping, or putting in irons, and the matter was not thus brought before the Japanese government. The English contracts provided for the coolies to be enabled to break their contract at the end of any year for a shorter time, and for free communication with their friends in China, and they were not transferable.

The court then adjourned.

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MONDAY, *September* 23.

Mr. Davidson wished to call attention to one or two points. He had shown that the case of the F. A. Palmer was wholly different to that of the Maria Luz. As to the law of Japan, he would mention that the Yeso emigrants were all willing to go, and no complaints had been made. As to the enforced labor, this municipal labor was for the public advantage in the same way as there was compulsory military labor in France and Prussia. As to the Yoshiwarra contracts, he would quote from Dr. Newton's pamphlet, which stated that the consent of the woman to be a prostitute must always be obtained, except in the case of children, who are at the disposal of the parents. The state had nothing to do with these latter, the children being naturally supposed to be safe in their charge. If the parents did what was immoral, it was hardly to be quoted against the government. In fact, the Yoshiwarra contracts could not be considered as having anything to do with the case in point. Mr. Davidson, arguing on the question of the *lex loci contractis*, maintained that the contracts should be according to the law of China, since Macao, unlike Hong-Kong, had never been ceded away by the Chinese. Mr. Davidson then put in Chinese books said to be published by the government, and with their entire sanction, against all emigration. The learned counsel then alluded to the opposition of all civilized countries to this coolie traffic, showing how anxious both the English and the American nations were for the abolition of the trade. Turning to the contracts with the adults, he held that they were in their nature contracts of slavery; they were assignable, and the men were bound to exactly what their masters desired, and, in fact, were to all intents and purposes slaves. Mr. Dickens had said that Mr. Altas was a Peruvian government official; but he submitted that there was no evidence of that, while here was evidence that Mr. Altas engaged the coolies as a private individual. He also maintained that the coolie contracts, like those of slavery, were *contra bonos mores*, and were so held by civilized countries.

1. Even if the contracts were proved to have been executed by the parties, and to be untainted by fraud, or force, or fear, so as to be binding upon the defendants, still there is no law which requires the court to order specific performance, because courts of law do not make such orders, either in cases of personal service or where the contracts are *contra bonos mores*.

2. The decreeing of specific performance is always a matter of discretion (not of obligation) with the court, and it will not decree it where it is not equitable to do so, nor where there is fraud or fault on the part of the person claiming it, nor where it is impossible to carry out the judgment.

3. That on the face of the pleading and the contracts they are contracts partaking so largely of that species of personal service called slavery that no court could either acknowledge or sanction them by decreeing their enforcement.

4. That in those analogous cases where extradition is demanded of criminals who have fled from the justice of their own country, and of political refugees when a government demands the recall of its subjects for military service—in all these cases the persons so demanded are not given up by the natives in whose territory they are, unless there has been an express treaty between the two governments, binding each to do so. So also in cases of runaway slaves.

The learned counsel then adduced a number of references from English and American authorities bearing upon the case and concluded his comments upon the legal points of the case. As to the plaintiff, he had to prove a variety of facts, which he held had not been sufficiently shown; thus, for instance, the agency, the signature of the parties, &c. The defendants alleged kidnaping, bad treatment, starvation, &c., and he held that the plaintiff had himself definitely proved it to the satisfaction of the court. He had proved that the contract had been broken by the plaintiff, and the court could not enforce the contracts. In his evidence the captain said that all was comfortable, there never was any discontent till they reached Yokohama; yet diretly afterward it was admitted that three men jumped overboard in mid-ocean. The learned counsel then instanced a number of contradictions in evidence of the captain and rest of the ship's company. The carpenter's evidence was too good, and was not straw. As to the worth of the statement that there was enough tea for all, he would contradict that by showing that the cook sold a tin of tea for $1; if there was enough tea why was it bought? Then Manuel, a sailor, said he heard all the questions and answers between the Macao officials and the coolies, yet he did not go round with them, but staid on deck; then the steward, he knew nothing; as to the interpreter, his evidence was unsatisfactory; he said all the coolies were anxious to go to Peru, yet they were guarded to the ship; then as to his knowledge of South China, he at one time said he knew all about South China, yet he never left Macao till he left on the Maria Luz; then the mate denied the captain's statement that the coolies could get on deck at night; then as to the visit of the minister, he went on board with a lieutenant; he was refused admission, but subsequently got on board the ship and went below, but he was not allowed to take his interpreter; he was not to hear the truth of the case, everything must be kept quiet; the captain was not on board and the mate could not let the minister see the coolies without his permission, yet subse-

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quently some persons were allowed to come on board without the captain's permission; then the mate would not allow the interpreter to bring forward the man who swam to the Iron Duke; however, he was brought, and the man could hardly stand; when Mr. Watson put some question, the man was flung out of the room; the mate's evidence was, in fact, useless; as to the doctor, he was cross-examined by his own counsel; the doctor contradicted all, and gave some insight as to the state of the ship; in conclusion Mr. Davidson maintained that the plaintiff had not made out his case. Indeed, he held that the plaintiff had given such evidence as to warrant the court in giving judgment in favor of the defendants at once, and asking that the court would consider the case as to whether or not it should be stopped, the plaintiff's case having broken down. Mr. Davidson concluded his address. Mr. Davidson said, with reference to the power of attorney, it had been signed since the raising of the actions, and therefore Captain Heriero had no power to raise there. Its date was 9th September. He consigned there was sufficient before the court now to enable it to base its judgment upon. He should therefore only call one further witness, the English consul here. He also produced one of the contracts of the defendant, stating that no signature or seal had been attached by the contractee, (the defendant,) while it did not bear the stamp of the Peruvian consulate, and therefore was additionally invalid. The facts elicited from the plaintiff and witnesses conclusively proved that he was not entitled to have specific performance of contract for which he asked, nor could it possibly be decreed by court, as it could not go beyond its own limits to enforce it, and the extradition law clearly went in his favor. Upon these grounds he asked for judgment in favor of the defendants on all points.

RUSSELL ROBERTSON warned:

I am the consul of the Queen of England in Kanagawa. I remember its (F. A. Palmer) coming into port in June, 1870. She arrived, flying the flag of San Salvador, with 800 passengers on board. She put in in distress and flew the quarantine flag. It was found virulent small-pox was on board. At the request of the consuls a cordon of boats was placed round her for several days and the men prevented landing. The agent of the ship, Mr. Fraser, (for A. Heard & Co.,) represented that the Chinamen were in great want of a run on shore to complete convalescence. The agents guaranteed the expenses, and the whole 730 were landed and taken to Kanagawa and placed in barracks. They remained there so long that the shipper, Lee Sing, came up himself and found it his interest to send them Pacific Mail Steamship Company to San Francisco at $40 or $50 a head. There was no complaint whatever, and no question was made as to the delivery of the coolies. They were each provided with a passage-ticket. There were no contracts at all. It was a speculation to undersell the Pacific Mail Steamship Company.

Cross-examined:

I do not think there was a treaty with China. There have always been special provisions with regard to Chinese based on a treaty for the settlement of a guild at Nagasaki.

Mr. Dickens asked whether the coolies were still under surveillance or not.

Mr. Hill said the coolies were being protected by the government. When the last finding of the court took place it was stated the coolies would be detained a few days, and this had been done.

Mr. Dickens, in reviewing the case, said the actions had been brought to put before the Kencho the arguments under which it might be induced to reconsider its decision and give up the coolies—although he did not anticipate much success by an action before a court which had actually already judged the question. But the trade was not condemned by either the public or private law of any country, except America. These contracts, if valid in their inception, had not since been voided by fraud or cruelty, although, perhaps, one or two might, owing to the action of the captain after he came to Yokohama. But he did not ask for specific performance of them, but only such as the men themselves were now capable of. The action was not brought against the coolies as free persons, but to induce the court to reconsider its action in the matter. He argued that the cases of the F. A. Palmer and Maria Luz were nearly identical, and contracts entered into by the passengers of the Maria Luz only differed from the model contract in the services of the men being assignable by a private person in the one, and only assignable by an official in the other. These men were being taken to Peru to labor on the railways there, as he was informed, and Serrano was one of the officials. If there was no special provision for sending letters or money home, there was nothing to prevent the coolies doing so, as they had all the privileges of Peruvian citizens. It was also argued that the model contract was redeemable. Let this be granted; but where was the coolie to get his money to effect the redemption provided for? He did not see how the end of the Yasso municipal forced labor justified the compulsory means used. After alluding to the enforcement of the superintendence of prostitutes as being a very different thing to the enforcement of contracts made for prostitution,

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as whatever public necessity for the first, there could be none for the other. In reply to the statement that Macao was politically, as well as physically, Chinese territory, he stated it was a Portuguese colony by cession and conquest, and an abandonment of that place by the Chinese had been conceded in a treaty-draught drawn up by them, but not ratified by Portugal. The Chinese edicts were not against the coolie-trade, or even slavery, but against kidnaping. If it were proved kidnaping were used in the Maria Luz he would throw up the case at once. Even if these contracts were tainted with slavery Chinese laws would uphold them. How could the contracts be against *bonos mores*? Were they against those of Japan, which enforced prostitution, or against those of all the rest of the world, which recognized the coolie-trade, with the exception of America? Extradition cases had nothing to do with the subject. With regard to an indemnity he would, if it were agreed to be given, leave its sum to the board of consuls. The captain, if guilty of cruelty on the high sea, was only amenable to the Peruvian or Portuguese government. In fact, the coolies were, during the whole term of their servitude, under the special protection of the Portuguese government, who had established consuls through Peru. His concluding words would be few, for he would not attempt to gain his cause by calling witnesses liars or fools, or to indulge in long adjectives, tall expression, or vituperative language, leaving them to those better able to use them than himself. The counsel for the defense simply summed up his defense: "O, I am perfectly content to rest my case on the statement of the plaintiff; he is such a liar and his witnesses are such liars." But he imagined the force of such a trick as this would be entirely lost on this court, whatever it might be with a jury. After stating that Mr. Davidson had asserted the mate had given conflicting evidence with the captain, he went on to assert that the evidence was altogether in his favor, and had been distortedly quoted by the defense.

Mr. DAVIDSON. That's not true.

Mr. DICKENS. That what I assert?

Mr. DAVIDSON. I say it's not true, and is a very insolent observation, which ought not to have been made.

Mr. Dickens proceeded to maintain the veracity of the witnesses for the plaintiff, with the exception of the Chinese doctor, whose statement, he argued, should be struck out, since he had been refused an advance of wages that very day, and had since disappeared altogether. In conclusion he put in a cane with which, he stated, the men had been punished; and asked whether the degree of cruelty of punishment with it was not less than that with the cat-o'-nine-tails, and whether any punishment with it would be commensurate with the offense. He wound up with the assertion that he had proved all the points of his petition, and by praying for a judgment in favor of his client.

Mr. Hill asked what Mr. Dickens's explanation of the contract held by the cooly not having the Peruvian consulate seal.

The captain said that one was the official document, the other simply a copy.

The court then arose.

In the Kanagawa Kencho, before H. E. Ohye Tak Gon no Kami.

Between Senor Armero, of Macao, China, a Spanish subject, by his agent, Don Ricardo Hereiro, master bark Maria Luz, a Peruvian citizen, plaintiff, and Li Chong, a Chinaman, passenger by the said bark, defendant;

And between Don Ricardo Hereiro, master of the Peruvian bark Maria Luz, and a Peruvian citizen, plaintiff, and Lai Taim, a Chinaman, a passenger by said bark, defendant.

Finding and judgment.

In the consideration of these actions I have been very much assisted by the books and authorities produced by the counsel both for plaintiff and defendant; for it has been my desire to be guided by the generally approved maxims of international law and the practice of courts of other states whenever such maxims and practice have been found to apply, as well as by the somewhat broader principles of natural justice and equity which are of universal application.

Japan, by her treaties with other states, has entered the comity of nations, and has thus accepted the system of international law as it is found to be practiced by independent and sovereign states. On all powers by whom that system is recognized and accepted, it imposes obligations and confers benefits; and Japan, while she will endeavor to meet the obligations which thus rest upon her in good faith, as she is able to learn and understand them, desires and expects also to avail herself of the rights and privileges which are at the same time conferred.

The actions above entitled involve questions somewhat diverse, and will be more conveniently considered separately.

In the first action named above it appears on the face of the alleged contract that one Althaus is the principal on the one part and the Chinaman Le Chong on the

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other part. Senor Armero purports to act as the agent of Althaus in Macao, and has signed the instrument as such agent. But that an agent cannot, without special power given him so to do, delegate his authority, is a maxim of every known law; and as neither Senor Armero or his so-called agent Heriero or his counsel have in any way shown that he has that special power, or even the fact of his agency, he cannot therefore delegate any authority to Captain Heriero. The latter has consequently no right to ask for the enforcement of the alleged contract, or to take any action under or in respect of it in any manner whatever. There are, however, other questions raised by the pleadings which seem deserving of consideration on their merits.

1st. Was the alleged contract duly executed, and is it valid and enforcible where made?

2d. Is it one which is *contra bonos mores*?

3d. Is it void by reason of fraud, or has it been first broken by the plaintiffs by ill-treatment?

4th. Should it be enforced by this court in the manner and to the extent prayed for?

As to the first question, it would seem that the allegation of due and proper execution, and that it is a contract valid and enforcible where made, must clearly and affirmatively appear; for that such a contract, even without objectionable feature of being assignable, if made in this empire, is not valid and enforcible, is certain. It would be wholly and completely void as opposed to the interests and settled policy of the empire. That undeviating rule has always guided the present imperial government, and in many instances when parents or guardians have entered into such contracts, and children have under them been taken from their houses to be clandestinely conveyed from Japan to serve for a term of years, this government has adjudged such contracts null and void and has compelled the parties concerned to return the child to its home. Some twenty children have at different times been so recovered. (Vide records of Kanagawa Kencho.)

No such instance coming to the notice of the authorities has been passed without such action and exercise of all possible means to procure the return of the person so conveyed away. Such a case occurred a few weeks since. The Japanese consul at Shanghai, after great exertions, recovered the child and took charge of her to be sent to her parents in Japan. (See record of foreign office.) The particulars of this case were given in the Japan Gazette of September 20, 1872.

On a still more extended scale were conducted the negotiations in respect of the persons taken to Hawaii, many of whom were subsequently returned to Japan. (Vide records in foreign office.) In that case the persons were of full age and no imputation of fraud was made.

The class of contracts which were referred to by plaintiffs' counsel as existing in Japan, and which were adduced in support of this action, do not appear to the court to bear the analogy to those we are considering that was claimed for them. The important incident that the party shall go to a foreign country, and thus lose the protection and care of his own, is wholly wanting in those adduced. Such an incident is utterly repugnant to the fixed and unvarying policy of this government, and would be held to make completely void any contract executed here. A peculiar domestic institution may exist in a state, and to an extent receive its countenance without any intention of encouraging its establishment abroad or forcing it upon the attention of the world. Even where domestic slavery exists the import and export of slaves is often strictly prohibited. Such was the case in the United States for a period of above fifty years. The contracts referred to by the counsel are a peculiar feature of a strictly domestic institution, and it is not supposed that, even were it possible they could in any manner come before a foreign tribunal, that they would be regarded as having any force.

It may, therefore, be broadly stated to be the well-considered and settled policy of this empire *that no laborers or other persons subject to this government or enjoying its protection shall be taken beyond its jurisdiction against their free and voluntary consent, nor then without the express consent of the government*, and that a contract entered into for such a purpose will be held wholly and completely void. We have said, therefore, that the proposition that such a contract is enforcible when made should clearly appear.

The general rule as to foreign contracts is that the *lex loci contractus* is to govern the construction, and that they will usually be enforced according to that law. But we find it a principle of international law that when the *lex loci* and the *lex fori* conflict or come into collision the rule must yield, as when it contravenes the public policy of a state, and neither does it apply when the parties had at time of contracting in view the law of another state. (Forsyth's Cases and Opinions on Constitutional Law, 1869, pp. 240, 243, and 250; Kent's Comment., lecture 39, page 462; and Story, Conflict of Laws, secs. 254, 327, 328, and Wheaton's International Law, sec. 93.)

2. Is the contract one *contra bonos mores*? The court has not been able to find in the authorities produced an instance where a contract of like character has been adjudicated, and is thus without a guide in arriving at an opinion on this important point. It must, therefore, be guided by general principles, and although it may not quite be said that the alleged contract is of a character which, in contemplation of universal

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law, renders it void *ab initio*, yet it is true that it does contain features which are not and cannot be reviewed with favor by nations other than those concerned, and that the most stringent and binding laws and regulations have been enacted by some of them in respect to the species of emigration of which it is an incident. (Herein see act of Congress of the United States, and also resolution of same body, and instruction from State Dept. to ministers and consuls, Consular Regs., 3d ed., 1868, pp. 85, 86; and British Govt. Regs. and instructions; vide evidence Mr. Watson.)

The alleged contract is not one of any ordinary character. Besides that it provides that the person bound shall proceed to a foreign country, it has the peculiar feature before referred to of being assignable, and seems to demand the most careful scrutiny. Under it the status of a person bound has most of the features of personal servitude, with the exception that there is a limit to the time during which the instrument shall have effect. For the term of years stipulated the person bound is no longer a person, but a chattel subject to an instrument which may be assigned and transferred to A, B, or C, may descend to the heirs, or be seized by the creditors of him who for the time being may be the custodian.

The law to which he is to be subjected is as yet a sealed book to him, for although it is referred to in the instrument itself, we learn from the evidence, (see testimony of witness Xavier, interpreter,) that it was neither read nor explained to him at the time of the alleged execution. That law is indeed as yet unknown to this court, for neither party was able to produce it on the trial.

That the term of this service is limited does not change its essential character. It will not be said that those persons are any the less slaves who may be so held under a system of jurisprudence which, while it recognizes and protects that relation, provides also that all such persons on reaching a certain age—an age of 90 or 50 years—shall be absolutely free. Nor can it be said that the provision for the payment of nominal wages redeems the alleged contract from the character above assigned to it. Wherever the relation of master and slave exists and comes under judicial cognizance and review, very peculiar obligations are recognized and enforced. Certain fixed and definite obligations have even been recognized as existing on the master's part, none the less certain and binding because implied rather than expressed in writing. Such is the obligation and duty to furnish medical care and clothing, to allow hours for recreation, and to advance necessary moneys for the comforts and necessities of the slave. Substantially, then, the practical status, whatever name may be given it, to which it is asked that the defendant be consigned is that of slavery, a state which is so repugnant to all sense of natural justice that it has ever been held that it can exist or be recognized only by force of express law, and which, then, is no obligation on the part of a sovereign state, either in the law or comity of nations, to in any manner assist or countenance.

3. Is the alleged contract void by reason of misrepresentation, concealment, or fraud at its making, or ill-treatment and oppression since?

The evidence as to the execution of the instrument is not certainly clear and decisive, but the allegation of fraud does not seem to be made out, although no one who heard the evidence can doubt that misrepresentation and concealment were certainly employed to induce such consent as was given. The interpreter, Xavier, stated that the alleged contract was executed in duplicate and that one copy was given to each party. Later the consul's attention being called to the lack of a seal on that given to the passenger, it was explained that this was not an original or duplicate, but a copy. If so, it seems strange that such signatures of other parties as are attached thereto should purport to be the real ones and not copies, and the question naturally occurs if the party bound be not himself possessed of a contract, how can he hereafter assert his rights thereunder or prove them in a court when it may become necessary? The copy in the defendant's possession is not only without the consular seal, but neither is it countersigned by the register, J. Rodga Costa, as is the original. It is alleged that the subject of the action has received abuse and ill-treatment to the extent of being a breach of the alleged contract, and a good deal of testimony was heard to this point. As to the condition of the passengers on the ship on her arrival here, the statements of disinterested persons differed widely, some stating it to be wretched in the extreme and others finding it quite the reverse. This being so, other circumstances are of importance in coming to a correct conclusion as to the treatment of the passengers, and the fact that there were early and continued attempts to escape; that a rebellion was attempted for that purpose; that many of the passengers were severely punished in consequence; that three men deliberately jumped overboard on the voyage, in the case of two of them there being no attempt to rescue or save them; that while in this port a still larger number repeatedly endeavored to escape and were brought back; that a very strenuous disinclination was shown to permitting a conference between Mr. Watson and the passengers, the mate and interpreter using deception to effect that purpose, and that actual force was in at least one instance resorted to to prevent it must all be taken to have much weight in support of the defendant's allegation of ill-treatment and oppression. The log-book also shows that during the voyage other

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men attempted to jump overboard, but were prevented. The space also allotted to each passenger seems much less than that provided for in the British-Chinese passenger act, to which reference was made by plaintiffs' counsel, to wit: 12 superficial and 72 cubic feet of space per passenger. The measurement of the Maria Luz, as appears by her register or flag license now in this Kencho, is, extreme length 109 feet by breadth of beam 24½ feet. The height of the hold between decks was by Captain Purvis estimated at 6½ feet. Twelve superficial feet and 72 cubic feet to each of 250 passengers would require a superficial area between decks of nearly 3,000 feet, a space certainly one-half greater than that afforded by the Maria Luz.

4. Should the alleged contract be enforced in the manner and to the extent prayed for? The instrument purports to be one for the performance of labor and personal services, an incident only of which is that the defendant will go to Peru for the purpose, and specific performance is sought of that particular act only. It must, of course, be considered as a whole and construed in its entirety, and with reference to all its parts, and the remedy sought being an equitable one, implies, under a familiar maxim, an offer and willingness by the plaintiff to do equity. The court finds, from the authorities to which it has been referred, and to which it had access, as to the practice of foreign courts of equity jurisdiction, that among the essential requisites of a contract upon which a decree for specific performance will be made are "that the mutual performance must be practicable," and that "it must be necessary;" that is, that there be no adequate remedy in damages, and further, that the court must be able to secure performance to all parties before it will be decreed against one; and that when the principal agreement cannot be enforced the court will not decree special performance of an accessory agreement. (Story's Eq. Juris., secs. 731 to 735, 793, f. 778, b. 10, Am. ed., 1870, and Bouvier's Law Dictionary, vol. 2, p. 538, 12 and ed. in 1868.)

The court further finds that, using the exact words of the authorities, "The plaintiff should come with perfect propriety of conduct," "clear from all circumstances of deceit;" "that the agreement be certain, fair, and just in all its parts," and that "when it would subject a person to great hardship" it will not be decreed. (See various cases and reports quoted in Tudor's Leading Cases in Equity, vol. 2, ed. 1850, pages 372, 374.) And to decree specific performance is universally stated to be wholly discretionary with the court.

The doctrines thus enunciated and confirmed accord with the soundest principles of natural justice, and are convincing to the judgment and discretion of this court. The general rule also undoubtedly is, (is subject, in certain particular cases, to qualification,) that a contract for personal services cannot be specially enforced by either party. (See Law of Contracts, by Prof. T. Parsons, 5 ed., vol. 3, p. 357, and cases and reports there cited, and Story's Equity Jurisprudence, sec. 793, L. ed., 1870.)

These several rules are all under systems of domestic procedure, and when the parties litigant remain within the domestic jurisdiction, *no instance has been found where a court has compelled an alien and stranger to go without its jurisdiction, or has placed him beyond its protection, except in compliance with the terms as an express and specific treaty stipulation to that effect entered into with the alien's state.* This is true even in case of criminals, and, *a fortiori*, it would apply when such a remedy is sought under contract.

Let us see, then, how the alleged contract answers the requirements thus seen to be necessary, for the principles thus adduced seem to be applicable in this case.

To decree what is here prayed for would be not to secure the performance by all parties of their several obligations, but rather to assist the plaintiff to avoid his if he were so inclined. Beyond Yedo Bay the ship and all passengers on board would be beyond the jurisdiction of this court or the authority of this empire. Suppose the court should make the decree sought and the ship should pass beyond its control, what would prevent the captain, were he so inclined, from taking these passengers to a place other than stipulated, or any place he may see fit? And, could he but elude the notice and vigilance of other nations, even from taking these men to a place where chattel-slavery exists and there selling them into a condition of absolute bondage?

Nothing that this court can now or could in such an event do would secure equity to those passengers. It would be powerless in the premises. Surely such consideration cannot be disregarded in influencing the conclusion of this court in a case like that under review.

We have already reviewed the circumstances attending the execution of the alleged contract and the conduct of the parties since. From that review the court cannot say that the plaintiff "comes with perfect propriety of conduct," "free from all circumstances of deceit," that "the contract is fair and just in all its parts," or that it would "not subject the defendant to great hardship."

From all the circumstances and facts thus reviewed, and guided by the la thus adduced, the court cannot therefore make the decree sought.

The conditional portion of the plaintiff's proper, commencing "unless the plaintiff is prepared to pay," suggests an absolute reversal of all known and ordinary methods of procedure, and could only be considered, if at all, in the sense of a demand for d mages; and besides which he does not ask this court to assess these alleged damages, but

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prays that another court, which has no existence in fact, may be constituted for this purpose.

No damages have, however, been proved. No attempt was made by the plaintiff to prove such, and none can be awarded.

The judgment of the court is for the defendant.

In the second action the same questions arise as in that we have considered, with the additional as to the wardship of the defendant.

The objectionable feature of the assignability is, however, absent from this contract, and it is in express terms stated to be not transferable.

We have already seen that such a contract, if executed in Japan, would be invalid, and the like remarks as were offered as to treatment on the voyage apply to this case also.

This contract *per se* cannot be said to be *contra bonos mores*.

For the reasons more particularly given heretofore, and in view of the same maxims of law, this court cannot decree a specific performance or award damages.

Damages is the usual and appropriate remedy on contracts of this character, but none were proved herein.

Although the wardship of defendant was alleged by plaintiff, no evidence was adduced in proof, and the defendant was sued in his own person. Why this course was chosen is not apparent to the court, but this action was considered deserving of an adjudication on its merits, and has been so considered and determined.

The judgment of the court is for the defendant.

KANAGAWA KENCHO, *September* 27, 1872.

[Inclosure 13.]

Mr. F. Dickens begs leave to acknowledge the receipt of a communication from the kencho, dated yesterday, informing him that the passengers of the Maria Luz, now under surveillance, will be allowed to go at large unless the twenty dollars per diem demanded by a previous communication of the kencho to defray the expenses of such surveillance, and paid up to yesterpay, continue to be paid. Mr. Dickens has accordingly caused a second sum of one hundred dollars to be transmitted to the kencho, a like amount having been previously transmitted in accordance with the kencho's first communication on the subject.

Mr. Dickens protests most respectfully against this daily payment of twenty dollars continuing to be enforced. The passengers are ashore wholly by the executive act of the kencho, an executive act justifiable, if at all, only upon the ground of the invalidity of the contracts entered into by the passengers, the only question about to be determined in the action brought by the captain under the permission given in the finding of the kencho, and in respect of which the continued payment of the above-mentioned daily tax is demanded.

The kencho ought, therefore, to bear the expenses attending such surveillance, and have no just right to demand from the plaintiff the cost of their keep and that of the officers in charge of them; the captain having always been willing to keep them on board of his ship.

The first payment of one hundred dollars was made under the impression that the cases would be heard within a few days.

The cases are of the greatest possible simplicity, and a previous case essentially similar to the present, necessarily withdrawn in consequence of the variable and inconsistent orders of the kencho upon the form of the pleadings, has been before the kencho for a considerable time.

The order to pay the twenty dollars per day was an executive, not a judicial act.

The order was peremptory, the penalty for disobedience or neglect being the putting an end to the surveillance, and so practically entirely destroying the remedy of the plaintiff, a remedy which, by the above-mentioned finding, he is admitted to be entitled to.

The counsel for the defendants in the actions now before the kencho never demanded such a daily payment, and is probably as much surprised as I was at the plaintiffs being called upon to feed the defendants.

No opportunity was offered to us of showing cause why it should not be demanded.

By the admission of the kencho itself its acts hitherto in relation to the Maria Luz have been wholly executive in their nature.

The captain, then, has the right to protest against such acts when advisable, and he does so protest against them one and all. Every possible obstacle has been thrown in his way by such executive acts to prevent him from procuring a fair hearing of his case, and from sustaining and defending the rights and interests confided to his care.

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The proceedings against the captain wear the aspect of being merely undertaken upon foregone conclusions; of being a mode of obtaining by indirect means, having a specious look of regular procedure about them, results, the attainment of which directly has not apparently been preferred by the authorities under whose directions the proceedings in respect of the Maria Luz were commenced and prosecuted.

A copy of this communication will be forwarded to each of the foreign papers for publication, and to each of the foreign ministers and consuls.

FRED. V. DICKENS,
Counsel for Captain Hereiro.

SEPTEMBER 14TH, 1872.

No. 244.

Mr. De Long to Mr. Fish.

No. 302.] UNITED STATES LEGATION, JAPAN,
November 6, 1872. (Received December 7.)

SIR: Upon learning, some time since, from the minister of foreign affairs for this empire, that the kingdom of Lew Chew had at last been formally incorporated into this empire, and the King reduced to the condition of an ex-daimio and assigned a residence at Yedo, which he had accepted, I felt called upon to call the attention of this government to the compact between our Government and that of Lew Chew, proclaimed by the President March 9, 1855, and to inquire if that would be respected and observed by this government, as it, in its provisions, gave to our people certain privileges not embodied in our treaty with Japan. Accordingly, I addressed a note to this government making such inquiry, (inclosure No. 1,) to which, on yesterday, I received an answer, (inclosure No. 2,) by which these authorities agree to regard the same.

Having learned that recently a junk's crew of Lew Chew people, who had been wrecked on Formosa, had been slain by the natives of that island, I inquired verbally of his excellency to know if such report was true; and if so, what, if anything, this government intended to do about it. I was informed, in reply, that it was true, and an intimation was thrown out that steps would soon be taken by the Japanese government to punish those people. The minister then inquired of me very particularly about Formosa; the character, purposes, and result of the expedition against those people led by our late Admiral Bell, and expressed the wish that I would obtain for him from our naval officers any copies of maps or charts possible.

All this seemed to indicate an intention to fit out an armed expedition.

At this juncture, which was about two weeks ago, General L. P. Le Gendre, United States consul at Amoy, arrived here en route to Washington, having a very full and complete set of maps, charts, photographs, &c., of the coast, main-land, and people of Formosa.

From him I learned that he had, on several occasions, visited the people who committed the atrocities, and established such relations with them as had enabled him to obtain guarantees against such atrocities being committed in the future upon Americans; that these people had observed their promises, and in two subsequent cases cared for and protected the crews of two English ships which were wrecked there; that diplomatic negotiations of some nature were now pending between our Government and China relative to this island, and that, in his opinion,

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it was feasible to undertake to obtain by peaceable means the same nature of guarantees for the Japanese.

Upon learning this, I thought I observed an opportunity, with the assistance the general could and seemed willing to lend me, to furnish this government with a mass of information most useful to it, thereby saving it from making any ill-advised efforts, and at the same time to put our legation at Peking and yourself in such rapport with the views and intentions of this government as to be of substantial benefit to us and at the same time advance my standing and intimacy with this government.

Actuated by these views, I requested General Le Gendre to remain over here for one steamer and assist me with this government by imparting to it such information relative to his observations of Formosa and its inhabitants as in his opinion and my own might, without impropriety, be given.

The general kindly consented to do so, and an interview between us and the minister of foreign affairs followed.

The minister expressed himself as surprised and delighted at thus being brought in contact with one so well informed on a subject so very interesting to them, and yet about which they could learn so little. The minister at once extended accommodations for the general in Yedo; invited my participation in all deliberations with Mr. Smith, the general, and himself, and has twice visited me and conferred upon the subject, being with me last evening until nearly midnight. The plan of action has not yet been resolved upon, but the minister assures me that his action shall be as open as the day to me, and that he will frame it to coincide with the wishes of our legation at Peking and of yourself.

I will at once advise Mr. Low of these proceedings by sending him a copy of this dispatch and writing him fully as often as anything develops of interest.

General Le Gendre will be compelled to remain over here at least one steamer more; that is, two weeks.

My obligations to him are very great. By his intelligence and courtesy, he has enabled me to serve this government in a substantial manner, which will, I am sure, materially strengthen my influence with them, and, as a consequence, promote our Government's interests. I think, also, that before this matter is concluded we shall be able to arm Mr. Low with power and information calculated to enable him to effect good results and improve his influence with the Chinese government. I hope in all of this that I have acted as you would have wished me to: if not, however, and you should disapprove of what has been done, I beg you to let the whole blame rest on me, as General Le Gendre has, in all matters, acted simply by my request, although I am satisfied that such action has also been in accordance with his own views and wishes.

I have, &c.,

C. E. DE LONG.

[Inclosure 1.]

Mr. De Long to Soyeshmia Tane-omi.

UNITED STATES LEGATION, JAPAN,
October 20, 1872.

YOUR EXCELLENCY: Understanding you to advise me a few days since that the King of the Lew Chew Islands had been called upon by the Japanese government to resign his titles and estates, which had been done, letters-patent of nobility issued to him

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constituting him a member of the nobility of your empire, ranking as do the former daimios, thus incorporating Lew Chew as an integral portion of the Japanese Empire:

I feel called upon to call your attention to a contract entered into between the former kingdom of Lew Chew and the United States of America, on the 11th of July, 1854, (see bound volume of Treaties, page 4,) and to ask if the same will be observed in all its provisions by your government within the territorial limits of the former kingdom.

I have, &c.,

C. E. DE LONG.

[Inclosure 2.—Translation.]

Soyeshmia Tane-omi to Mr. De Long.

FOREIGN OFFICE, TOKEI,
The 5th of 10th month of 5th year of Meigi.

In reply to your excellency's note of October 20, 1872, regarding the Lew Chew Islands, I beg to state as follows:

The Lew Chew Islands have been dependencies of this empire for hundreds of years, and to them the title of Han was recently given.

As you say, the Lew Chew being an integral portion of the Japanese Empire it is natural that the provisions of a compact entered into between the Lew Chew and the United States on the 11th of July, 1854, will be observed by this government.

With respect and consideration,

SOYESHIMA TANE-OMI.

No. 245.

Mr. De Long to Mr. Fish.

No. 306.] UNITED STATES LEGATION, JAPAN,
November 21, 1872. (Received December 26.)

SIR: In continuation of my advices relative to bark Maria Luz, I beg leave to advise you that after her abandonment by her captain and mate, who left her with a crew on board at anchor in this port, at an interview which I had with the minister for foreign affairs upon other business matters, his excellency intimated to me that it would be agreeable to the Japanese government if I would, on behalf of the Peruvian government, assume the charge of the vessel and look after the crew. I replied that when officially notified in writing that the vessel was no longer under restraint on the part of this government, and that no objection on its part existed to my taking charge of the vessel, I would do so.

This was promised, and on the 24th of last month I received the promised letter, (inclosure No. 1,) upon the receipt of which I placed an American named Benjamin C. Trask on board as keeper, his wages to be seventy-five dollars per month for such time as he might be needed.

I found the crew on board to be twelve in number; they were mutinous and discontented, expressing a desire to be paid off and allowed to return to Hong-Kong.

I had the captain take and return to me an inventory of all the property found on board the vessel, unbend and dry and stow away the sails to prevent the crew from running away with the vessel, and her berth changed to be more secure, of all of which by each successive mail I have advised the Peruvian government. I endeavored to satisfy the crew to remain on board and do duty, by showing them that some representa-

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tive of the agent or owners would soon appear, satisfy their demands, and in the mean time I would endeavor to see them provided with all that was necessary for their wants. I did have two of them placed in the hospital, they being sick, and notified the Japanese government that I had done so.

Matters remained in this condition until the 11th instant, when I received a communication from the captain, (inclosure No. 2,) advising me that the crew were in an insubordinate and mutinous condition, pilfering and destroying property of the ship, and demanding to be paid off and sent away, which course he earnestly recommended in the interest of the owners of the vessel.

This communication was accompanied by a portage bill containing the names and statement of account of wages of each man due. (Inclosure No. 3.)

I immediately answered the captain, asking him to confer with the crew and let me know if they were willing to accept their pay up to date, receive their passage-tickets to Hong-Kong as part of their pay, (inclosure No. 4,) to which the captain on the same day replied. (Inclosure No. 5.)

After the receipt of this I addressed Messrs. Walsh, Hall & Co. a note, requesting a loan of money, upon the credit of the vessel, of a sufficient amount to enable me to pay off the crew and defray current expenses of the ship, (inclosure No. 6,) to which they replied in the affirmative, stating terms. (Inclosure No. 7.)

I then on the same day addressed the agent of the Pacific Mail Steamship Company a note, asking upon what terms this crew could be sent to Hong-Kong on a vessel of that company then ready to sail, (inclosure No. 8,) to which he replied, offering to take them for the sum of fifteen dollars each. (Inclosure No. 9.) This amount, he verbally assured me, was the lowest sum for which they ever conveyed any person, and the price charged for prisoners; that he was induced to do this through fear that these men might do mischief among the shipping in the port.

I then addressed the kenrei, or the governor of this port, a note, (inclosure No. 10,) inclosing a copy of the captain's communication to me, and advising him that I approved the captain's recommendations, and would pay the crew and send them away, provided the kenrei saw proper to discharge them, to which, on the following day, the 12th instant, the governor of the port replied (inclosure No. 11) offering to discharge the crew at once.

I then addressed Captain Trask a note (inclosure No. 12) inclosing to him a draft for six hundred and thirty-eight Mexican dollars, directing him to have the crew at the kenrei's office at the hour designated by the governor to be discharged, to there procure passage-tickets for them at fifteen dollars each, place them on board the steamer China when that ship was ready to sail, and then deliver to each man his ticket and the amount due him, and to report his proceedings to me, which he did by a note addressed to me on the 14th instant, (inclosure No. 13,) in which he advised me of having sent them all away, and of their having assaulted him, of the police having been called to his assistance, and that some of the officers of the steamer China were also assaulted by them. The agent of the steamer China also advised me of their having fired their revolvers repeatedly into the boats surrounding the steamer, thus proving their insubordination and desperate character.

Subsequently his excellency the minister for foreign affairs expressed himself to me as highly gratified with my proceedings in connection

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with this vessel and crew. I then informed him that my course in this matter had been severely criticised by correspondents of the American press, who had grossly misrepresented the same and among other things asserted that the Japanese officials had felt annoyed and disappointed by my actions; that I would address him a note, which I did that day, (inclosure No. 14,) advising him of the departure of the crew, to which, if he pleased, I would like to have him reply, expressing his real feelings relative to my action. This he assured me he would do with pleasure.

What the nature of that reply will be I know not, as I have not yet received it, but it is promised to me by mail to-morrow, and will accompany this as inclosure No. 15.

Permit me, sir, in concluding this dispatch, to state that as you had requested me to act for the Peruvian government in this empire, as I had accepted that trust, and notified the Peruvian government of my acceptance, when appealed to by the captain of this ship to make known to the central government the action of the local authorities at this port, and inquire if the same had the sanction of its authorities, to ask if his passengers who had been summoned ashore as witnesses were to be returned on board his ship, and to obtain a certified copy of the record of the proceedings for transmission to the Peruvian government for its information, I felt that this much I could not consistently refuse to do, as such action could have no effect in protecting the captain, who had already been tried and convicted, or in restoring the coolies to a condition of bondage.

I did not, as has been asserted, revoke or express any regret at the action taken by Mr. Shepard, but, on the contrary, followed the same course that he did, until after the trial and conviction of the captain. The communications that I then wrote to this government, I read and considered with Mr. Shepard, inasmuch as he had previous charge of this business, and he warmly approved the same, remarking that he did not see how I could say anything less, nor how my action could be considered as wrong.

This I mention in proof of my assurances that there has been no conflict of judgment or ill-feeling about this matter between Mr. Shepard and myself, as has been stated.

That there has been none between this government and myself I have the repeated assurances of the minister for foreign affairs verbally given, and I beg leave also to refer to the communication which he has promised to send.

I trust that you will grant that my position in dealing with this matter was not wholly devoid of difficulty and embarrassment.

If my conduct of it should in any way meet with your disapproval I shall deeply regret it, as I did my best to serve the power which you wished me to, without offending this or violating previous instructions received from you.

It is my misfortune to have arrayed against me the hostility of some persons here, who are correspondents of the eastern press, who, criticising my actions without at first obtaining authentic information, have succeeded in prejudicing the public mind.

One of these gentlemen I have advised, through Mr. Shepard, and again through Mr. E. Peshine Smith, that he has erred in his statements as to my course, and done me an injustice, offering at the same time on both occasions to meet him in a friendly way, and convince him of his error. He has on both occasions declined to meet me, and, as I am

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advised by others, has threatened to continue a system of attacks upon my official course.

It is not my intention, in the future in correspondence with you, to notice any newspaper criticisms, and I trust you will pardon me for having done so in this instance.

I have, &c.,

C. E. DE LONG.

[Inclosure 1.--Translation.]

Soyeshmia Tane-omi to Mr. De Long.

FOREIGN OFFICE, TOKEI,
The 20th of 9th month, 5th year Meiji.

I have the honor to inform your excellency that according to my intimation to you I have made inquiries from the Kanagawa kencho, and learn that the Peruvian bark Maria Luz is under no restraint or arrest from the kencho in any manner.

If you, in the capacity of extending your good offices on behalf of Peru to that ship and her crew, see fit to do so, there would seem no objection to your taking such charge of the vessel as you may think advisable, and you have the assent of this department to do so.

With respect, &c.,

SOYESHMIA TANE-OMI.

[Inclosure 2.]

Mr. Trask to Mr. De Long.

Received November 11, 1872.

SIR: I take the liberty to address you in regard to the crew of the Maria Luz, which I am in command of at present, lying in Yokohama. The crew of said vessel are all very much dissatisfied with the vessel, and are continually complaining about stopping on board any longer, and they are insubordinate and unruly, being entirely ungovernable, and to what excess this may lead to finally is impossible to tell; they will not work on board, although they will try and pilfer and destroy everything that they can lay hands upon for money and liquor; they are no interest to the ship or owners, but all the reverse, and if any longer by the vessel something serious may happen, as they are not to be trusted for a moment, and their imprisonment and confinement will follow. So, for the benefit and interest of the government of Peru and the owners of the vessel, and likewise the residents of Japan, I, after a careful interview with them on several occasions on the subject of remaining on board and behaving themselves as they should do, have come to the conclusion that arguing with them is of no avail. So, I, B. C. Trask, master of the vessel, recommend their discharge as soon as possible as an interest to the owners, &c. The expenses of the vessel now, with this crew on board, for provisions and wages, amount to about $400 per month, not including the destruction they cause. The provisions for cooly use on board are nearly all spoiled, being poorly cared for, both by water and rats and mice, &c., and mostly all provisions on board that are any good must be used, to save them. I have taken great pains since my command of the vessel in regard to the vessel's provisions, &c. The expense of the vessel, after the discharge of the crew, including salaries, provisions, &c., for myself and a sufficient crew to care for her during her stay here will amount to $140 per month. The time of the crew on board since signing articles at Macao is five months and sixteen days up to the 11th of November, 1872, they having come on board May 26, 1872. The amount of wages requisite to pay them amounts to $636.21, they having received two months' advance each at the beginning of the voyage, &c. So, sir, should you regard this as interest to the ship and owners, as I feel quite confident you will, on careful investigation into the same, as I have complained before on several occasions of them, I deem it necessary for all concerned in the vessel to discharge them as they are willing to pay their own way to Hong-Kong, and sign clear of the ship and owners, &c.

I have, &c.,

BENJAMIN C. TRASK.

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[Inclosure 3.]

Portage bill of the Maria Luz, from May 26, 1872, up to October 30, 1872.

Names.	When shipped.	Rank.	Advanced wages.	Time on board.	Cash rec'd.	Jail fees.	Wages per month.	Balance due.
				Mo. days.				
James Brown	May 20	Carpenter	2 mos. $30	5 4	.....	.....	$25 00	$78 88½
Louis Robin	May 20	Seaman	2 mos. 30	5 4	.....	$5 00	15 00	42 00
José Raiz	May 20	Store-keeper	2 mos. 36	5 4	.....	.....	18 00	56 00
Antonio Corniras	May 20	Seaman	2 mos. 30	5 4	.....	1 50	15 00	45 50
Manuel Cordos	May 20	....do	2 mos. 30	5 4	.....	.....	15 00	47 00
Carlos Quadaro	May 20	....do	2 mos. 30	5 4	.....	.....	15 00	47 00
Manuel Ardovel	May 20	Ord. sergeant	2 mos. 26	5 4	.....	5 00	13 00	35 73½
Quan Asirero	May 20	....do	2 mos. 26	5 4	.....	1 50	13 00	39 23
Quan Melino, on board	May 20	....do	2 mos. 26	5 4	.....	5 00	13 00	35 73
Amasio Equardo, hospital	May 20	Seaman	2 mos. 30	5 4	.....	.....	15 00	47 00
Jese Guteria, hospital	May 20	Ord. sergeant	2 mos. 26	5 4	.....	.....	13 00	40 73
Quan Amisado	May 20	....do	2 mos. 30	5 4	.....	.....	15 00	47 00
								562 21

Pay extended for twelve days more—whole time being 3 months 16 days—to November 12, 1872.

	Wages due for 3 months 16 days.	Received.
James Brown	$88 88½	$73 88½
Luiz Robin	48 00	33 00
José Raiz	63 60	48 60
Manuel Cordoz	53 00	38 00
Antonio Corniras	51 50	36 50
Carlos Quadaro	53 00	38 00
Manuel Andovel	40 93	25 93
Quan Asirero	44 43	29 73
Quan Melino	40 73	25 73
Amasio Equardo	53 00	38 00
José Guteria	45 93	30 93
Quan Amisado	53 00	38 00
Sum total	$636 20	$460 20

Wages due each man.

James Brown, carpenter		$88 88½
Quan Melina		40 93
Quan Andonel		40 93
Carlos Quadaro		53 00
Guiz Robin		48 00
Antonio Cornirero		52 50
Quan Amisado		53 00
José Guteria		45 93
José Raiz		63 60
Quan Aserero		44 43
For Hong-Kong		531 20
Ten men for Hong-Kong.		
Manuel Codozo	$53 00	
Amasio Querdo	53 00	
Stay at Yokohama		106 00
Total amount		637 20

B. C. TRASK,
Master Maria Luz.

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[Inclosure 4.]

Mr. De Long to Mr. Trask.

No. 143.] UNITED STATES LEGATION, JAPAN, *November* 11, 1872.

SIR: Your communication, with its inclosure, relative to the Maria Luz, is at hand. I quite agree with your recommendations. Inquire of the crew if they will receive their wages on board the steamer China, and sign as you specify; the cost of their passage per man to be deducted, and passage-tickets given. Let me know their reply this afternoon, and give me a list of the names of those who wish to go, and the amount due to each.

Yours, respectfully,

C. E. DE LONG.

[Inclosure 5.]

Mr. Trask to Mr. De Long.

Received November 11, 1872.

SIR: I have communicated with the men, and they are very willing to do as I specify. There are ten who wish to go to Hong-Kong, and two who wish to join the Idaho, or any American man-of-war that they can join for three years.

I remain, &c.,

B. C. TRASK.

[Inclosure 6.]

Mr. De Long to Messrs. Walsh, Hall & Co.

No. 144.] UNITED STATES LEGATION, JAPAN, *November* 11, 1872.

GENTLEMEN: As the recognized political agent for the government of Peru in this empire, I have, with the consent of the Japanese authorities, assumed charge and control of the Peruvian bark Maria Luz, now at anchor, abandoned by her officers, in this port. It is necessary for me to obtain money from some source to meet the necessary expenses of the vessel and crew, until such a time as I receive instructions as to their disposition from the Peruvian government or the owners of the vessel. I should like to open such an account with your house, and for such moneys as I draw, your lien upon the ship shall be recognized as first in order of payment. I shall only draw for crew's wages and current expenses. Please advise me if I may do so, and also upon what terms you will make such advances, and oblige

Yours, &c.,

C. E. DE LONG.

[Inclosure 7.]

Messrs. Walsh, Hall & Co. to Mr. De Long.

YOKOHAMA, *November* 11, 1872.

DEAR SIR: In reply to your communication of this date concerning funds for the disbursements of the Peruvian bark Maria Luz, (which flag you represent,) we respond with pleasure to your request, and shall be pleased to honor your drafts upon us for this object, charging commission of five per cent. upon the amount so disbursed without funds in hand, with the addition of one per cent. interest on the advance per month until the time of reimbursement. These charges are according to our usual scale, and we shall be glad to be of any service to you or to the legation in furnishing you with funds on this account.

We are, &c.,

WALSH, HALL & CO.

[Inclosure 8.]

Mr. De Long to Mr. Lane.

No. 145.] UNITED STATES LEGATION, JAPAN, *November* 11, 1872.

SIR: The crew of the Peruvian ship Maria Luz, now at anchor in this port, abandoned by her officers, are reported to me by Captain Trask to be discontented and mutinous. They have expressed the desire to me to be paid the wages due to them, and to be em-

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barked for Hong-Kong in the company's steamers. They are very poor, some of them sick, and, as they are qualifiedly under my protection, I have concluded in their interest and that of the owners of the ship to discharge them, pay them off, and send them to Hong-Kong on the steamer China, if I can make satisfactory arrangements with you to that end. Will you kindly advise me upon what most reasonable terms you will give the passage to that port, and oblige

Yours, &c.,

C. E. DE LONG.

[Inclosure 9.]

Mr. Lane to Mr. De Long.

OFFICE PACIFIC MAIL STEAMSHIP COMPANY,
Yokohama, November 11, 1872.

DEAR SIR: Your favor No. 145, of date, stating the condition of the crew of the Maria Luz, and requesting to know on what terms we will carry them to Hong-Kong on the steamship China, has had our careful attention. In view of the circumstances of the case, we will perform the service at the rate of $15 (Mexican) per man.

Trusting that the same may meet with your approval,

We remain, &c.,

GEO. E. LANE.

[Inclosure 10.]

Mr. De Long to Oye Takee.

UNITED STATES LEGATION, JAPAN,
November 11, 1872.

SIR: I have the honor to bring to your notice a communication this day received by me from Captain Benjamin Trask, master of the Peruvian bark Maria Luz, recommending the payment and discharge of the crew of the said ship. His recommendations meet with my approval. If they do with your own, I will furnish Captain Trask with the money to pay the crew, less their passage-money, ($15 each,) which he will pay to the Pacific Mail Steamship Company for their passage to Hong-Kong on the steamer China, to sail the 13th instant.

Please reply at once.

I remain, &c..

C. E. DE LONG.

[Inclosure 11.—Translation.]

Oye Takee to Mr. De Long.

KANAGAWA KENCHO, *November* 12, 1872.

SIR: Your communication of the 11th instant, with inclosure from Captain Trask, of the bark Maria Luz, recommending the discharge and payment of the crew of that vessel, which is approved by yourself, is received and considered.

The reason given for the discharge of the crew seems to be good, and the course suggested therefore approved. You will therefore please notify Captain Trask to appear with the crew at this kencho to-day at 2 o'clock p. m., when they may, upon being paid, be discharged.

I am, &c.,

OYE TAKEE.

[Inclosure 12.]

Mr. De Long to Mr. Trask.

No. 148.] UNITED STATES LEGATION, JAPAN,
November 12, 1872.

SIR: Inclosed I send you a draft on Walsh, Hall & Co. for the sum of six hundred and thirty-eight dollars, (Mexican, $638.) Get this cashed at once, and then take all of the crew of the Maria Luz desiring to be discharged to the kencho at 2 p. m. to-day;

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obtain their discharges, giving them chits for their money, and passage-tickets to Hong-Kong. Then proceed to the Pacific Mail Steamship Company's office and purchase passage-tickets for Hong-Kong at fifteen dollars ($15) each for all who wish to go. See the crew on board the China to-night or early in the morning to-morrow, and just before the steamer sails give each man his passage-ticket and the money due him, and report your proceedings in writing to me.

I remain, &c.,

C. E. DE LONG.

[Inclosure 13.]

Mr. Trask to Mr. De Long.

YOKOHAMA, *November* 12, 1872.

SIR: I have sent twelve men of the Maria Luz away to Hong-Kong, as ordered. I remained on board the steamer with them until 2 a. m., and then I gave them the money and the purser of the steamer the tickets. They gave me much trouble up to the last moment. They tried to rob me, and they tried to take my life on the vessel and on the Hatoba likewise. I was forced to call on the English police to protect me so I could go on board the steamer. The purser knocked down two of them. They stole two of the swords out of the vessel last night. I went on board, overhauled their baggage, but I could not find anything of them. They, I suppose, threw them overboard, to avoid being arrested. They all signed clear of the ship and owners in the kencho. I paid them the sum of six hundred and thirty-six dollars and twenty cents, as directed. I used or appropriated the remainder, which was one dollar and eighty cents, for sampan hire, &c. Total sum drawn, six hundred and thirty-eight dollars. ($638.)

I have, &c.,

BENJAMIN TRASK.

[Inclosure 14.]

Mr. De Long to Soyeshmia Tane-omi.

No. 128.] UNITED STATES LEGATION, JAPAN, *November* 20, 1872.

SIR: I have the honor to advise you that Captain Trask, master of the Maria Luz, advised me that her crew are in a mutinous and insubordinate condition; that they were demanding to be paid the wages due them and be discharged. He had become alarmed that they might commit some act of violence to the vessel or himself unless their request was complied with; in view of which statement of facts he recommended to me that the crew be discharged and sent away. Attaching full faith and credit to this report, I forwarded a copy of the same to your kencho at Kanagawa, indorsing the recommendations made by the captain, and offering, in event the crew should be discharged, to pay them their wages and provide a way for them to leave the empire. Your kencho also approving the recommendations, did discharge the twelve members of the crew, who, upon receiving from me their wages and passage-tickets for Hong-Kong, left the port of Yokohama on the last American mail steamer.

While being placed on board the steamer, it is reported to me that they behaved in a very outrageous manner, assaulting the captain and several of your police officers with their knives and pistols, and, after arriving on board the steamer, firing at boats around the vessel.

The ship Maria Luz is now in charge of the captain, one of the former crew, and a Japanese assistant.

I sincerely trust that this report may be gratifying to your excellency, and that in the whole matter of the Maria Luz what I have done by way of lending my good offices to the Peruvian government may not have resulted in annoyance or inconvenience to your excellency's government or yourself.

I remain, &c.,

C. E. DE LONG

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[Inclosure 15.—Translation.]

Soyeshmia Tane-omi to Mr. De Long.

FOREIGN OFFICE, TOKEI,
The 21st of 10th month, 5th year Meiji.

In reply to your excellency's note of November 20, 1872, I beg to say that I am gratified to learn that you have sent the riotous crew of the Maria Luz beyond the limits of this empire.

I add with great pleasure that nothing which you have done while lending your good offices to the government of Peru in the affair of the Maria Luz has been otherwise than agreeable to this government and to myself.

With respect, &c.,

SOYESHMIA TANE-OMI.

No. 246.

Mr. Fish to Mr. De Long.

DEPARTMENT OF STATE,
Washington, December 5, 1872.

SIR: Your dispatches No. 271, under date of 3d September, and No. 282, under date of 27th September, reached this Department at the same time. They relate to your proceedings with regard to the Peruvian bark Maria Luz.

Mr. Shepard's previous proceedings in relation to the same vessel were reported in his No. 55, under date of July 20, in which he stated that he had informed the captain of the vessel that, "although always ready and anxious to render aid and assistance to vessels bearing the Peruvian flag, and engaged in legitimate business, still, as the coolie trade is prohibited by the laws of the United States, and as the ship, by the captain's own confession, was engaged in that trade, he withheld his official name, aid, and sanction, and therefore declined to assist or protect the captain in any manner whatsoever."

In my reply, No 133, under date of August 29, Mr. Shepard was informed that, as that vessel was engaged in the coolie trade, his proceedings, as reported by him in that dispatch, were approved.

In the papers which you have submitted, reference is made more than once to my instruction No. 15, under date of April 13, 1870. In that instruction you were requested "to attend to any matters which may be intrusted to your charge by the government of that republic, (Peru,) so far as this can be done compatibly with other instructions from this Department."

In my No. 127, under date of December 21, 1871, in speaking of the appointment of envoy extraordinary and minister plenipotentiary to Japan, as proposed to be conferred upon you by the government of the Hawaiian Islands, you were informed "that, while holding an office of profit or trust under this Government, you are not at liberty to accept the position conferred upon you by the King of Hawaii, unless by consent of Congress. At the same time no objection exists to the exercise of your good offices in behalf of the Hawaiian government, so far as you can do so consistently with the provisions above referred to."

It does not appear that the Peruvian government had in any way intrusted to your charge the case of the Maria Luz, or that that gov-

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ernment had made any communication to you with regard to any occasion that might arise for the exercise of your good offices. On the contrary, it is stated in your dispatch that no answer whatever has been returned by the Peruvian minister of foreign affairs to communications which you have heretofore addressed to him.

Under these circumstances, it is regretted that you deemed it proper to take any steps which might wear the aspect of giving the support and countenance of the United States to a vessel suspected by the Japanese government, not without reason, of complicity in a nefarious traffic, of a character particularly odious to the Government and people of the United States.

I am, &c.,

HAMILTON FISH.

No. 247.

Mr. Fish to Mr. De Long.

No. 157.] DEPARTMENT OF STATE,
Washington, December 18, 1872.

SIR: I am in receipt of your No. 302, dated 6th day of November.

You state that the kingdom of Lew Chew has become formally incorporated into the Japanese Empire, the King reduced to the condition of an ex-daimio, and assigned a residence in Yedo, which he has accepted; that you had called the attention of the Japanese government to the compact of July 1854, between the United States and Lew Chew, and had inquired if that compact would be respected and observed by the Japanese government within the former territorial limits of Lew Chew, and had obtained from the Japanese government a declaration that they will be observed.

Your action in this matter is approved. It is supposed that the absorption or incorporation of one state by another does not discharge or release, within the limits of the absorbed or incorporated state, the obligation which it may be under to a third power at the time of such absorption or incorporation.

You mention also some threatened anticipated hostile movements contemplated by Japan against the inhabitants of Formosa, and that information had been obtained by you from Mr. Le Gendre, United States consul at Amoy, who chanced to be at the time at Yedo, with reference to the island of Formosa, and had been communicated by you to the Japanese government.

Not knowing the precise objects for which the Japanese government intend to make the knowledge obtained from you available, I am not prepared to express an opinion whether your action, in this regard, is or is not to be approved. Further information and the use which the Japanese government may make of the information which you furnished may decide this point.

I am, &c.,

HAMILTON FISH.

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No. 248.

Mr. De Long to Mr. Fish.

No. 324.] UNITED STATES LEGATION,
Japan, December 21, 1872. (Received Jan. 23, 1873.)

SIR: I have the honor to advise you that on yesterday I received from the minister for foreign affairs of this empire a note, (inclosure No. 1) advising me that this government has changed its calendar and adopted the system in use in America and Europe; to which I this day replied by a note (inclosure No. 2) congratulating him upon this reform.

I have, &c.,

C. E. DE LONG.

[Inclosure 1.—Translation.]

Soyeshima Tane-omi to Mr. De Long.

The 19th day of the 11th month of the 5th year Meiji.

SIR: The calendar heretofore in use having been changed, a new one, called Solar, (Taijo liki,) will be used, the 3d of the coming 12th month having been designated as the 1st of the 1st month.

And I beg leave to communicate to your excellency that we will call next year the 2,533rd year after the inauguration of Inmu Tenno, and the 6th year of Meiji.

With respect, &c.,

SOYESHIMA TANE-OMI.

[Inclosure 2.]

Mr. De Long to Soyeshima Tane-omi.

No. 135.] UNITED STATES LEGATION, JAPAN,
December 21, 1872.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your dispatch advising me of the change made by your government in its calendar, and to heartily congratulate you upon this reform, which, while it gives your government a more convenient system, also serves to bespeak the great antiquity of His Majesty's throne. I am sure that all western states will hail this action with great pleasure.

I have, &c.,

C. E. DE LONG.

No. 249.

Mr. De Long to Mr. Fish.

No. 325.] UNITED STATES LEGATION, JAPAN,
December 24, 1872. (Received February 25, 1873.)

SIR: I have the honor to advise you that by request of the Japanese government I have published a notification advising foreigners that the Japanese may not convey to them any lands, or pledge the title-deeds of such property as collateral security, (inclosure No. 1;) also a notification informing the public that owing to the inexperience of the Japanese employés in the telegraph department this government cannot under-

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take at present to guarantee certainty or expedition in communicating dispatches. (Inclosure No. 2.)

I beg leave also to advise you that I have this day addressed a note to each United States consular officer in this empire, inclosing a copy of these notifications for the information of our countrymen residing at the several ports.

I have, &c.,

C. E. DE LONG.

[Inclosure 1.]

Notification.

American citizens resident in Japan are hereby advised that the Japanese government has issued the following notification to its people, and requested the undersigned to make the same known to his countrymen.

C. E. DE LONG,
United States Minister.

[Copy of translation.]

Every one within the limits of this empire is strictly prohibited from selling any ground to foreigners, although the same may be their property, or to give them the title-deeds of such ground as security for any bargain whatsoever.

Let the above be published through the whole country, so that even among the lower classes no misapprehension may exist.

[Inclosure 2.]

Notification.

UNITED STATES LEGATION,
December 23, 1872.

The undersigned publishes, for the information of his countrymen in Japan, the following letter, received by him on the 20th instant, with an accompanying proclamation by the public works department.

C. E. DE LONG,
United States Minister.

[Translation.]

Soyeshima Tane-omi to Mr. De Long.

FOREIGN OFFICE,
Tokei, 20th of 11th month of 5th year of Meiji.

SIR: I had the honor to communicate to your excellency, in a letter dated the 2d of the 9th month, that a telegraphic line from Tokei to Kioto having been completed, it would be opened on the 7th of the same month for public use; but on account of its being only recently finished the operators are not fairly accustomed to its working and delay is often caused; so I beg leave to hand to your excellency the accompanying proclamation issuing from the department of public works.

With respect and consideration,

SOYESHIMA TANE-OMI.
H. I. J. M. Minister for Foreign Affairs.

His Excellency C. E. DE LONG,
Envoy Extraordinary and Minister Plenipotentiary of United States and Hawaiian Islands.

The section of telegraph between Tokei, Osaka, and Kobe, being part of the intended line to Nagasaki, was opened to the public, as a preliminary measure, almost as soon as that part of the line had been constructed.

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There have, however, frequently been delays and interruptions of communications in consequence of the want of skill and experience of the young clerks, and other causes impossible to avoid at the beginning in working an extensive line, but which the officers are busy looking after at all times.

If any interruption happens at intermediate stations, messages must be sent by post to the next nearest station having communication, in order to obtain as much as possible the convenience of the telegraph.

As in the commencement of working a line these matters are unavoidable, the foreign and native community are requested to notice the above, as this department cannot hold itself responsible for delays.

An increase of telegraphic means of communication is being rapidly pushed forward, and as soon as completed, and after great inspection, between Tokei and Nagasaki, it is expected all complaints on this head will cease to have any foundation.

11th month, 5th Meiji, Telegraph Department.

No. 250.

Mr. Fish to Mr. De Long.

No. 161.] DEPARTMENT OF STATE,
Washington, December 28, 1872.

SIR: I have to acknowledge the receipt of your dispatch No. 306, under date of the 21st November, in which, in continuation of previous advices, you describe your later proceedings with regard to the Peruvian bark Maria Luz. The measures which you adopted, as described in your dispatch, at the request of the Japanese authorities, for the safety of the vessel and for the discharge of the crew, appear to have been expedient and proper under the circumstances. The security of the bankers who advanced the money for the necessary disbursements consists in their lien upon the vessel, and the Government of the United States assumes no responsibility for their payment.

I am, &c.,

HAMILTON FISH.

No. 251.

Mr. Fish to Mr. De Long.

No. 164.] DEPARTMENT OF STATE,
Washington, December 30, 1872.

SIR: Your dispatch No. 309, under date of 22d November, referring to the relations between Japan and China, has been received.

While there is much to be commended in your conversations with the minister of Japan, as reported in this dispatch, there are some points in the course of proceedings which you have followed of which the expediency and propriety may be doubted. The advice which you have offered to the Japanese authorities, that peaceable means should be pursued, with an earnest effort for their success, to obtain what they desire from the Chinese before resort is had to warlike measures, or serious preparations are made therefor, cannot be too strongly approved. The part which you have taken in the negotiations for the employment of General Le Gendre by the Japanese, with a distinct reference to the use of his services as an adviser in military operations, should they become necessary, would appear to be inconsistent with the peaceful policy thus

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wisely recommended. Your dispatch bears witness that you are not unaware of the provision contained in the Statute of the United States, (act of 18th August, 1856, sec. 19; 11 Statutes at Large, 59,) which, in distinct terms, prohibits the diplomatic officers of the United States both from recommending any person at home or abroad for any employment of trust or profit under the government of the country in which they reside, and also from asking for any person any emolument, pecuniary favor, office, or title of any kind from any such government. The approval of the Department cannot be accorded to proceedings in evasion if not in direct contravention to these terms of the statute. With regard to your remark that you "had heard General Le Gendre say that, having once been appointed by the President of the United States as minister to Buenos Ayres," he would not accept office with lower rank under another government, it is proper to call your attention to the fact that General Le Gendre was not appointed to the office mentioned. It is true that he was nominated by the President to the Senate, but that body declining to advise and consent thereto, the appointment was not made. The civil rank of General Le Gendre under the Government of the United States is that of consul. It is more than doubtful whether a diplomatic representative can, consistently with the terms of the statute, discuss such matters as these in his conversations with the minister of the government to which he is accredited; but it is clear that anything he might feel authorized to state on such subjects should be in precise accordance with the facts.

In any conversations you may have with a view to influencing the proceedings of the Japanese government in its intercourse with China, it is advisable to induce the Japanese to separate themselves as far as possible from the exclusive policy of the Chinese, and to adopt the progressive policy of free commercial and social intercourse with other powers.

With reference to the audience question, I inclose confidentially, for your information, a copy of the * instruction on that subject which I addressed to Mr. Low, the minister of the United States in China, under date of the 21st instant.

I am, &c.,

HAMILTON FISH.

No. 252.

Mr. De Long to Mr. Fish.

No. 340.] UNITED STATES LEGATION,
Yokohama, Japan, January 22, 1873. (Received Feb. 25.)

SIR: The publication by the press of this city of reports of such a nature as the one I forward, (inclosure No. 1,) stating that the Peruvian government have fitted out and intend sending forward to Japan an armed expedition, charged with the business of demanding explanations from this government relative to the Maria Luz matter, and also indemnity, has created considerable excitement here in official circles. At an interview which I held with the minister for foreign affairs on yesterday he asked me if I believed these reports. I replied that I did not:

* For inclosure see document No. 50, page 135.

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that certainly I had not received any information to that effect either from my own Government or from that of Peru. He then asked me if the correspondence which had taken place between the Peruvian minister and yourself relative to the objects of the mission, and which being transmitted to me I had, under instructions, transmitted to him, could not be considered as conclusive upon this point. I advised him that I feared not, as upon examination of the dates I found that that note was written probably before the news of the Maria Luz affair had reached either Washington or Lima, but that I felt sure no government, after having thus formally announced an intention and invoked the aid of a friendly power to announce its mission and declare its intentions, would be liable hastily or for slight reasons to change its course. He then asked me if I had any objections to his having the correspondence that had passed between us upon this subject published, in order to allay any excitement upon the subject. I replied that he might publish the letter of Mr. Freyre to yourself, (the inclosure with your No. 146;) also my note to him and his reply to me, (the same that I transmit to you by this mail as inclosures with my No. 338,) but that for certain reasons it was advisable not to publish your No. 146. This he was much pleased with, and advised me of his intention to publish the same in the Japanese newspapers. He then inquired of me what course I should pursue if this mission should come charged with hostile intent. I replied that my Government had instructed me to lend my good offices to assist the Peruvian mission in its objects as declared in its letter, but it was equally well known to Peru and Japan that the United States representatives in every land were instructed in the strongest terms to do everything in their power, not only to prevent the growth and spread of the coolie traffic, but to completely prohibit it in the future; that Japan, in arraying itself against this business, had and would enjoy the fullest sympathy of the United States; that upon the arrival of this embassy I would at once make known to it what I had done in its behalf, and seek to learn its objects and intentions; that if I found it disposed to make trouble, on account of the course Japan had pursued about the Maria Luz, or to enter into negotiations to establish privileges in favor of the coolie-trade, that I should at once put forth every effort in my power to dissuade it from such a course, at the same time frankly avowing the opposition of my Government thereto; that by the relations I already held with this mission I hoped to be able to do much to avert danger from this empire, if any was threatened, but that, in the event I should discover this mission to be resolved in the prosecution of such purposes as those that were feared, no other course would be left open to me, compatible with the views of my Government and my own feelings, than to at once terminate my relations with the mission, which I would do, and notify the Japanese government thereof.

With this expression, the minister expressed his unqualified satisfaction, at the same time assuring me that his government reposed complete confidence in my declarations, and looked forward with the most complete assurance to the avoidance of any misunderstanding with the government of Peru, while the mission it sent forward should counsel with the representatives of the United States.

Trusting that I have understood and followed the wishes you expressed in your No. 146,

I have, &c.,

C. E. DE LONG.

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[Inclosure 1.—Extracts.]

THE MARIA LUZ.

LIMA, *November* 12, 1872.

The Peruvian mind is very seriously exercised over the news recently received from Japan relative to the treatment of the captain of the coolie-ship Maria Luz. The facts of the case are simply these:

The vessel, with her live cargo, left Macao for Calao direct, but, having encountered heavy gales and stormy weather, put into a Japanese port in distress for repairs. While these repairs were being effected one of the coolies escaped, reached the shore and made a complaint to the Japanese authorities of cruelty at the hands of the captain, alleging, at the same time, that he was being conveyed to Peru against his consent. Assuming the story of the Chinaman to be correct, the authorities proceeded to act.

All the coolies on board were brought, by force, to land and were declared free. The captain, on protesting, was sentenced to either one hundred lashes or to one hundred days' imprisonment, as he might prefer; and here the story ends, as the steamer bringing the news left the scene of conflict at this point.

The Peruvian government is more than indignant. The coolies were all engaged by contract in Macao, the papers were pronounced legal by the governor and consul at that place, and the coolies themselves had signed the necessary documents and received the customary advance. The traffic, commonly called the coolie-trade, while denounced by foreign nations, is permitted by the Portuguese holding the port of departure and by the Peruvians receiving the immigrants. The vessel carried the Peruvian flag, and only entered the Japanese harbor to repair the damage she had suffered during the gale. The captain is an officer of the regular Peruvian navy, temporarily employed in command of the Maria Luz.

The contract was entered into in a foreign country between parties in no way amenable to the regulations of Japan, and the vessel being in Japanese waters purely through fortuitous circumstances, was entitled to the protection and consideration afforded by international regulations. Had the coolies been taken from the empire of Japan, the case would assume, say the Peruvians, a totally different aspect. But Japan, taking to herself the province of an arbitrator in an affair foreign to her rights, or even interest, places herself in an unenviable light. The consuls resident in Yokohama, protested energetically against the proceedings of the Japanese tribunals, the English chargé d'affaires, Mr. Watson, alone upholding the action of Japan.

The Peruvian government, having no representative at the scene of the occurrence, has taken as evidence the relation published in the Japan Herald of the 7th of September last, and is now having the account translated into Spanish for the information of the public.

But in the meantime other steps are being taken. The embassy to be dispatched by Peru to China and Japan leaves here on the 18th instant, and Captain Garcia y Garcia, the chief of the mission, a brother of the former minister from Peru to the United States, Dr. José Antonio Garcia y Garcia, will be fully instructed as to the course he must pursue. The Japanese government will be requested to make the necessary explanations and reparation for the damage caused by its conduct.

Captain Garcia will sail in the Independencia, a formidable iron-clad frigate, mounting sixteen heavy guns, and constructed by Samuda on the Thames in 1865. We are here unaware of the force of the Japanese navy; but, should the matter prove serious, it is said that the intrepid "Japs" will find a tough antagonist in the frigate.

It is sincerely hoped here that the affair can be satisfactorily settled by Captain Garcia without recourse to gunpowder, but the offense admits of no arrangement without a "change of base" on the part of His Majesty the Mikado.

It is understood that through the efforts of the British legation the action of the Japanese government was hastened and strengthened.

No. 253.

Mr. Fish to Mr. De Long.

[Extract.]

No. 176.] DEPARTMENT OF STATE,
Washington, February 26, 1873.

SIR: I have received your No. 341, with an account of the proceedings in the consular court of Yokohama against Mr. E. Peshine

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Smith, for failing to comply with a consular court regulation which requires citizens of the United States to enroll their names at the consulate. * * * * * *

The authority of a minister in an Oriental country to make regulations having the force of law within the country to which he is accredited is derived from the act of 1860, entitled "An act to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, and for other purposes."

The first twenty-eight sections (except the twenty-first) relate to the treaties referred to in the title; the remainder of the act refers to the "other purposes." Sections one, four, and five, therefore, relate exclusively to the subject of carrying into effect treaty provisions conferring judicial powers on ministers.

The first section provides that—

"To carry into full effect the provisions of the treaties, &c., * * the ministers and the consuls of the United States duly appointed to reside in each of the said countries shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaty, respectively, be invested with the judicial authority herein described."

The fourth section defines how those powers are to be exercised, namely, in conformity with the laws of the United States, "but in all cases where such laws are not adapted to the object," (*i. e.*, the exercise of such judicial powers,) "or are deficient in the provisions necessary to furnish suitable remedies, the common law, including equity and admiralty, shall be extended in like manner over such citizens and others in the said countries; and if defects still remain to be supplied, and neither the common law, including equity and admiralty, nor the statutes of the United States furnish appropriate and suitable remedies, the ministers in the said countries respectively shall, by decrees and regulations, which shall have the force of law, supply such defect and deficiencies."

The fifth section provides that, "*in order to organize and to carry into effect the system of jurisprudence* demanded by such treaties, respectively, the said ministers, with the advice of the several consuls in each of the said countries, respectively, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of said consuls, * * * and make all such decrees and regulations, from time to time, as the exigencies may demand; and all *such* regulations, decrees, and orders shall be plainly drawn up in writing and submitted, as above provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice and considering the same, the minister in the said countries, respectively, may, nevertheless, by causing the decree, order, or regulation to be published, with his signature thereto and the opinions of his advisers inscribed thereon, make it to become binding and obligatory until annulled or modified by Congress."

The regulations in question purport to have been issued under this authority.

It is the opinion of the Department that this statute confers upon the minister in Japan no authority to make a regulation requiring citizens of the United States to register their names, and no power to enforce such a regulation judicially.

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The authority conferred by the act is defined in the first section to be a "judicial" authority. By the fourth section the minister is required to execute that power in *conformity with the laws of the United States*, with authority to vary from those laws in two cases only: 1. Where those laws are not adapted to the exercise of the judicial authority conferred by section one. 2. Where they are deficient in the provisions to furnish suitable remedies. In each of these contingencies the minister has authority to make regulations in order "*to furnish suitable and appropriate remedies*," and for no other purpose whatever.

The fifth section is still more explicit on this point. Every power named in this section is recited to be conferred upon the minister "*in order to organize and carry into effect a system of jurisprudence.*"

The regulation in question is not made in the exercise of a "judicial authority;" it is not made in the exercise of the jurisdiction in criminal and civil matter "conferred by the treaty;" it furnishes no "suitable remedies" to citizens of the United States; it is not incidental to the organizing and carrying into effect of a system of "jurisprudence;" it is in no sense an exercise of the powers conferred upon you as a minister in Japan by the law of 1860; it is, in every just sense, legislative in its character, imposing upon the citizens of the United States in Japan duties which are not imposed upon them by law, and affecting their rights and their liberties to a corresponding extent.

* * * * * * *

You are instructed to inform Consul Shepard and the other consuls of the United States in Japan, respectively, of this decision of the Department.

I am, &c.,

HAMILTON FISH.

No. 254.

Mr. De Long to Mr. Fish.

No. 361.] UNITED STATES LEGATION IN JAPAN,
Yokohama, March 9, 1873. (Received April 11.)

SIR: I have the honor to advise you that on the 27th instant the legation from Peru, headed by Señor Aurelio Garcia y Garcia, arrived here per the American mail. The day following, his excellency, accompanied by his secretary of legation, J. Federico Elmore, called upon me, and I at once accompanied and introduced them to the several foreign representatives here.

On the next day I accompanied them to Yedo, intending to call with them at the foreign office and introduce them to the ministers, but on our arrival we found it to be a holiday and the office closed.

Knowing Mr. Soyeshima's earnest desire to meet with the embassy as speedily as possible after its arrival, I went alone to his residence, to learn from him if it would be agreeable for me to call with them there on that day. During my interview with him he advised me of his intention to offer the legation a temporary residence at Enryo Kwan, the imperial chateau in Yedo, reserving only the royal apartments, thus making them for the time being the guests of the government, and also expressed a desire to have them at once call upon him, which we accordingly did. The interview was very pleasant in its nature; a copy of the letter of credence

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was delivered, the chateau was tendered and accepted, and an audience at an early day requested and promised.

I also tendered to the legation any use they might see proper to make of the legation building in Yedo, placed the services of Mr. N. E. Rice, interpreter for our legation, at their disposition.

Returning from Yedo to Yokohama with Señor Garcia, the question of the Maria Luz case was discussed to some extent by us.

In the course of that conversation I ventured to state to Captain Garcia my opinion, to the effect that if any serious controversy should arise between his government and this upon that subject, Japan would unquestionably have arrayed with her the liveliest sympathies of many of the Christian states; that in the efforts this nation was putting forth to become a civilized power, she carried with her constantly the active assistance of all states having treaty relations with her, and that the foreign representatives at her court had always endeavored to act as a unit in assisting and encouraging her in each labor of reform; that we had all been called upon very frequently to overlook on the part of this government errors and mistakes sometimes amounting to actual grievances; that this action had been taken to prevent casting a chill upon the tide of good feeling for foreign states that had so strongly set in here; that in this great movement in favor of civilization I felt sure his government and himself must feel as lively a sympathy as any other government or representative; that within the last few weeks this government had inaugurated reforms most gratifying to the civilized world—it had repealed its edicts against Christianity, taken down its notifications and proclamations relative to the same, proclaimed rules organizing its judiciary on the basis of courts in Europe and America, and had also offered, upon certain conditions, to open its entire territory freely to foreigners; that in these noble works of reform Mr. Soyeshima had been recognized by the diplomatic corps resident here, as the able and active leader; that, at such a juncture, it must cause inexpressible pain to the civilized world to have anything occur tending to check this noble progress, or to weaken the influence of a minister so able and so liberal as Mr. Soyeshima; that under such circumstances I begged to express the hope that on his part these negotiations would be conducted in a spirit of magnanimity and liberality, overlooking technical faults, in order to preserve undisturbed the spirit of good-feeling now animating this people.

I further stated to him that I had been thus candid with him in order that the direction of my sympathies might not be misunderstood; and further, that he might have a correct understanding of the condition of affairs here at this time.

His excellency was kind enough to hear me through with courtesy and patience, and, after I had concluded, to assure me that all I had said should be maturely considered by him; and also he expressed the liveliest sympathy with the spirit of progress which was prevailing here.

Several days after his excellency's arrival he delivered to me a formal letter announcing the same. (Inclosure No. 1.)

Also a letter from the Peruvian government, thanking me for my action in representing its interests here. (Inclosure No. 2.)

To the latter I replied on the 2d instant, expressing my willingness to assist this legation in establishing treaty relations with Japan, presenting complete accounts of all expenses that had been incurred in taking charge of the vessel, and tendering her to his excellency; also, agreeable to a verbal request made by him, I inclosed copies of all dis-

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patches, with their inclosures, sent by me to his government, which had not arrived at Lima prior to his departure. (Inclosure No. 3.)

I beg to advise you that I have not furnished to his excellency copies of any instructions received by me from you, nor copies of any dispatches sent from this legation to you.

Before the sailing of the next mail I will prepare, in order to forward to you, a complete list of such documents as I have furnished him with.

On the 3d instant the minister was received by the Emperor, as he advised me by note of date March 4, (inclosure No. 4,) and at the same time he unofficially furnished me with a copy of his address to the Emperor, (inclosure No. 5,) and also a copy of His Majesty's reply, (inclosure No. 6.)

On the 5th instant I received from his excellency a dispatch acknowledging the receipt of my note with inclosures, expressing his satisfaction therewith, and also with accounts of the Maria Luz as presented, promising to pay the same and asking me to retain possession of the ship for a short time, (inclosure No. 7.)

On the 8th instant I received another note from him, asking for copies of the correspondence that had passed between this legation and the Japanese government, relative to the establishment of a new court of justice for Kanagawa, and the amendment of the municipal convention of Yokohama. Also for a copy of that convention, and a copy of the dispatch received at this legation in 1867 accepting that convention, (inclosure No. 8.) To which I replied, after first asking the minister for foreign affairs if there was any objection on his part to my complying with this request, and receiving his assurance that there were none, (inclosure No. 9.)

The inclosures with this dispatch are the same as those which I forwarded to you with my No. 446, with the addition of the copy of the convention, and the letter of the Japanese government accepting it in 1867. In this connection I beg leave to advise you of my receipt on the 7th of last February of two dispatches from the Peruvian government, (inclosures Nos. 10 and 11,) to which I replied on the 18th of that month, (inclosure No. 12.) This I believe completes the record of all my correspondence with that government, also with this government, relative to Peruvian interests, and also with the Peruvian legation.

On day before yesterday I met Mr. Soyeshima, who wished to confer with me about the business of the Peruvian embassy.

He appeared somewhat restless at the idea of being detained here by this business, and being compelled to enter upon the Maria Luz discussion, which had evidently become somewhat distasteful to him. He asked me what course I would recommend him to pursue. In reply I said, "At your conference appointed for to-morrow I would at once offer to conclude a treaty with Peru, upon as favorable terms and conditions as those existing between Japan and other states; after doing which, when the Peruvian minister should mention the Maria Luz business, I would unhesitatingly say to him that the government of Japan never having had any relations with the Peruvian government or its people prior to the arrival of this bark, it must be apparent to him that the Japanese government had no intention or desire to give any offense to the Peruvian government, and stood ready to give him such an assurance; that if the Peruvian minister should claim that the transaction has been illegal, that the interests of private parties had been injured, and prefer a claim for a money indemnity, to treat such claim with respect, notwithstanding however fixed his opinions might be against it, to say to the minister in reply that the Japanese government, in the conduct

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of the Maria Luz case, had been prompted solely by the desire to do justice and relieve suffering humanity; that it had been guided in its actions by advisers upon whose legal opinions the government placed the greatest credit, yet he stood ready to hear from them any representation they might have to make in proof of the illegality of this proceeding, and would not hesitate, if convinced that any injustice had been done to any of his people, to grant them a proper indemnity; that the discussion of this question was one that could not well be entered upon by him until they had presented their case and he had submitted it to the law-officers of his government for their examination and report; that his intention to leave in a few days for Peking would preclude the possibility of his entering upon that discussion before his return, therefore necessitating such delay or otherwise submitting the matter to his successor in the foreign office."

Mr. Soyeshima expressed himself entirely satisfied with this expression of opinion.

On the same day I was also called upon by Mr. Garcia, who inquired of me whether I thought it best for him to conduct these negotiations verbally or in writing. I replied that if I was conducting the negotiation I would first ask a conference, and at that conference I would state all of my requests, and learn the views of this government in reply. Then, if it should occur that some were assented to and others not, he would understand to what points it would be necessary for him to address his written case. This seemed to accord with the minister's views, and since that time a conference has been held, the proceedings of which have been detailed to me by Mr. Rice, who acted as interpreter.

From Mr. Rice's statement it appears that Mr. Soyeshima opened the conference by stating that, being compelled to absent himself for a short time, he deemed it his duty to ask the Peruvian envoy for a statement of the objects of his mission; that he would be required to explain the same to His Majesty the Tenno before his departure, and would also like to be able to reply to any questions upon the same that might be asked him while in China; that if a treaty was desired, as had been hinted by the Peruvian envoy at the audience with the Tenno, the government was ready to discuss the same, and that if the Maria Luz case was to be opened again they would give him their attention also. But with reference to the latter, he must allow that the government of Japan, never having had any relations with Peru, could not be suspected of any desire to injure or oppress its people that came into a Japanese port on their own country's vessel, and his government was ready to give them such assurances at any time, and closed by stating that his government had considered that in conducting the proceedings as it had done it was acting humanely and from the best of motives, and having no desire to conceal one single act of theirs from the public eye, had in fact distributed copies of the whole case to the different treaty powers, in order to learn the opinions of those who had one to give.

His excellency the Peruvian minister then replied that he was much pleased to learn the good intentions of the Japanese government shown toward the participants in that affair; that some of his people had sustained personal inconveniences and pecuniary loss; and whereas the original intention of the Peruvian government had been to establish a treaty of amity, &c., with Japan, and named its officers who were to attempt such a duty, the reports of the Maria Luz affair had claimed their later attention, and he, as the envoy, considered that it should be considered firstly, and a determination as to whether his

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people were entitled to a pecuniary indemnity for losses sustained be arrived at before the treaty negotiations were entered into.

Mr. Soyeshima then repeated his willingness to have the matter considered by the proper officers of his government, and proposed that in the event of a final disagreement the question be referred to some friendly power for arbitration and settlement.

His excellency Señor Garcia then said he was willing for such points as could not be agreed upon to be referred in such a way, so that an arrangement might be made before Mr. Soyeshima left Yedo for China; and Mr. Soyeshima replied that he would not have time to consider the question at all before his departure, whereupon his excellency Señor Garcia gave notice of his intention to send in his exposition of the case within a few days, and Mr. Soyeshima reiterated his promise that his successor would give it his careful attention.

Thus this matter stands at present, with the relations between the legation from Peru and the Japanese government most kind, and the whole affair in as fair a shape for amicable adjustment as could be wished.

Trusting to your kind approval, I have, &c.,

C. E. DE LONG.

[Inclosure. 1.—Translation.]

Peruvian minister to Mr. De Long.

YOKOHAMA, *February* 22, 1873.

SIR: I have the honor to inform your excellency that I arrived in this city late yesterday by way of San Francisco, California, accredited by the government of Peru as envoy extraordinary and minister plenipotentiary.

My government has intrusted me in a special manner to express to your excellency the very particular pleasure which they have experienced on knowing the solicitous care with which your excellency has attended to the Peruvian interests which were intrusted to your excellency since 1870, and more especially your excellency's action in the incident of the Peruvian bark Maria Luz. The minister for foreign affairs has separately written to your excellency a communication on this subject.

Within a few moments I shall give myself the pleasure of calling at your excellency's residence in order to express personally to your excellency the above sentiments, which are also those felt by him who now has the honor to subscribe himself as your excellency's most obedient servant,

AURELIO G. Y GARCIA.

[Inclosure 2.—Translation.]

Peruvian minister of foreign affairs to Mr. De Long.

DEPARTMENT OF FOREIGN AFFAIRS,
Lima, November 21, 1872.

Hon. Aurelio Garcia y Garcia, a post-captain in the Peruvian navy, who will place this note in your excellency's hands, has been appointed envoy extraordinary and minister plenipotentiary at the courts of China and Japan, with the object of concluding treaties of friendship and commerce with both countries. Mr. Garcia is also charged with the mission to arrange in an amicable manner, with the government at Yedo, the question which has arisen out of the disagreeable incident which took place at Yokohama with the Peruvian ship Maria Luz. Mr. Garcia's mission is one of peace, and although the government had the purpose at first, that is to say, before the incident came to their knowledge, to send the legation, accompanied by two men-of-war, which would give it more prestige, the government gave up this idea in order to avoid doubts about its peaceful intentions.

The legation intrusted to Captain Garcia needs then the support and co-operation which I have no doubt, your excellency will please lend to it, continuing in this way the good

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offices which your excellency has exercised in favor of Peru, near that government, in the case of the Maria Luz, and in the transmission to this department of the full and detailed facts which refer to it.

The Peruvian government will always feel grateful both to the Government of the United States for the recommendation which in our favor they made to their representative in Japan, as also to your excellency for the solicitous care with which your excellency has acted on that recommendation.

Independent of this, Mr. Garcia is likewise instructed to arrange with your excellency about the expenses which your excellency has sent to this department, and any other matter referring to the service of Peru.

I avail myself of this opportunity to repeat to your excellency the expression of thanks of my government, and to offer once more to your excellency the assurances of my distinguished consideration and esteem.

J. DE LA RIVA AGUERO.

His Excellency Mr. DE LONG,
Minister of the United States in Japan.

[Inclosure 3.]

Mr. De Long to the Peruvian minister.

No. 63.] UNITED STATES LEGATION,
Yokohama, March 2, 1872.

SIR: I have the honor to acknowledge the receipt of the dispatch from your government, dated the 21st of November last, forwarded to me in your care.

I have carefully noted its contents, and after first expressing my deep sense of gratification at learning that my course here, while representing Peruvian interests, has been approved, I beg to express my admiration for the kind consideration manifested in revoking the original intention of sending your legation forth in vessels of war as soon as the Maria Luz complication became known to your government.

I am also deeply gratified to learn by this dispatch that your mission is one of peace, and that you bear with you instructions to adjust the Maria Luz business in an amicable manner. With such information before me, I feel at liberty to answer you that it will be a great pleasure to me to aid you to negotiate a treaty of amity and commerce with Japan, and in establishing cordial relations with this empire.

I congratulate your excellency and the officers comprising your suite upon your safe arrival here, and I beg to express the hope that your mission may result in the greatest good to your own and also to this country.

In obedience to the verbal suggestion made to me yesterday by your excellency's secretary of legation, Señor J. Fredrico Elmore, I have now the honor to transmit to you herewith copy of a dispatch, (No. 218,) of the 6th of October last, addressed by me to your government respecting the Maria Luz; also a copy of my dispatch to your government relative to the same subject, (No. 229,) of the 5th of last November, (with eight inclosures,) and my No. 151 of the 16th of last November, (with eleven inclosures;) also my No. 18 of the 18th of last January, (with two inclosures,) and my No. 48 of the 18th of last February; also copy of a note from the acting master of the Maria Luz, dated the 22d of January, communicating an inventory made by him of the property on board the bark, and a list of certain other property belonging to the bark, recovered from the schooner South Sea. Also another communication from the same source, dated the 13th of January last, forwarding the expenses of that vessel for that month.

This forms, I believe, a complete history of all my correspondence about this bark which I have conducted with all parties; also it embodies a complete history of all my correspondence with your government, and all of my correspondence with this on behalf of Peruvian interests which had not reached Lima prior to your departure. It also exhibits a complete account of the property found on board of the vessel when I assumed charge of her; and also an account in full of all expenses incurred, under my direction, in paying off the crew and maintaining possession of the bark.

I beg leave, in conclusion, to request your excellency to extend an early examination into the accounts of this ship; and I also beg to advise you that it is my desire to speedily transfer its custody into your hands.

I have the honor to remain, sir, your most obedient servant,

C. E. DE LONG.

His Excellency AURELIO GARCIA,
Envoy Extraordinary and Minister Plenipotentiary of Peru to China and Japan.

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[Inclosure 4.—Translation.]

Mr. Garcia to Mr. De Long.

No. 1.] YEDO, *March* 4, 1873.

SIR: I have the honor to inform your excellency that having arrived in this empire appointed by his excellency the President of the republic of Peru, as envoy extraordinary and minister plenipotentiary, I was received yesterday, together with all the members of my legation, by His Majesty the Tenno, in a public audience.

On communicating to your excellency this event, it is very gratifying to me to express to your excellency the honor I feel in forming part of so distinguished a body as the diplomatic corps accredited to this court.

I avail myself of this first opportunity to offer your excellency the assurance of the high and distinguished consideration with which I have the honor to be, your excellency's most obedient servant,

AURELIO G. Y GARCIA.

His Excellency C. E. DE LONG,
Envoy Extraordinary and Minister Plenipotentiary of United States in Japan.

A true translation.

J. FREDERICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 5.—Translation.]

Address of the Peruvian minister to the Mikado.

SIRE: Great is the honor which I, at this moment, feel on presenting myself before Your Majesty as the first envoy accredited by my country, the republic of Peru, at the court of the ancient empire of Japan, ruled to-day by so wise and prudent a monarch as Your Majesty, who is executing in this magnificent country, with the general applause, the most extraordinary and transcendental reforms.

The kind reception and courteous hospitality which Your Majesty's government has in so spontaneous and delicate a manner shown me, will be most highly appreciated by the nation whom I represent, and have created in me the profoundest gratitude, the public expression of which I regard as one of my first and most important duties.

I have been intrusted, in a very especial manner, by His Excellency the President of Peru, to express to Your Majesty how earnest is the interest he feels in the development of the relations which always should exist between the countries separated as they are by an ocean of easy navigation, and both of them abounding in valuable and distant productions. Through the advantages of a mutual interchange, mutual prosperity would be attained, provided it was based on acts of justice, as indeed, with profound faith, will be expected of Your Majesty, who in such high degree possesses that pre-eminent virtue. That a long and peaceful life may permit Your Majesty to carry out to their complete termination the progressive and liberal measures which have been decreed, are my earnest hopes, at the time that I place in Your Majesty's august hands the letter of credence by which His Excellency President Pardo appoints me envoy extraordinary and minister plenipotentiary of Peru near Your Majesty. It only remains for me to assure Your Majesty that frankness and good faith will be my only guides and with them I am sure of finding in Your Majesty the best helps to fix on lasting bases the relations of all kinds between Peru and Japan.

A true translation.

J. FREDERICO ELMORE.
Secretary Peruvian Legation.

[Inclosure 6.]

Reply of the Mikado to the address of the Peruvian minister.

[Translation.]

ROYAL REPLY TO THE ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF PERU.

We are highly gratified that you, sir, have come hither as envoy extraordinary and minister plenipotentiary from his excellency the President of Peru, bearing credentials

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from the same, with the expressed desire that the friendship between both countries may be closer drawn.

It is not to be doubted, sir, that your ability will enable you to sustain the duty intrusted, and accomplish the desire of the President, be prospered, and the friendly relations between both countries may be lasting.

Third month, 6th year of the illustrious reign.

MEIJI.

[Inclosure 7.—Translation.]

Mr. Garcia to Mr. De Long.

No. 2.] YEDO, *March* 5, 1873.

SIR: It is with the greatest satisfaction that I have received your excellency's esteemed communication, dated March 2, 1873, accompanied by numerous inclosures, which form, your excellency states, a complete history of all your excellency's correspondence about the bark Maria Luz, conducted by your excellency with all parties; embodying also a complete history of all your excellency's correspondence with the Peruvian and Japanese governments, on behalf of Peruvian interests, subsequently to my departure from Lima; exhibiting likewise, your excellency adds, a complete account of the property found on board of the vessel when your excellency assumed charge of her; as also an account in full of all the expenses incurred, under your excellency's direction, in paying off the crew and maintaining the possession of the bark.

I am sincerely obliged to your excellency for the kind words which your excellency employs in congratulating me and the members of my legation upon our safe arrival here. I also thank your excellency for the amiable offer which your excellency makes to aid me in my efforts to negotiate a treaty with Japan, and in establishing cordial relations with this empire.

By the first mail I shall inform my government, both of the contents of the dispatch which I have the honor to answer and of the friendly action and good offices which, with so much kindness, have been lent me by your excellency, even before I landed at the port of Yokohama.

I have also read, with equal pleasure, your excellency's favorable opinion about the objects of the present mission, and the manner it finally came to this country, on account of the original intention of sending it forth on board of vessels of war having been revoked.

The accounts of the Maria Luz shall be paid without delay, in conformity with the documents which your excellency has forwarded to me, as soon as your excellency may see fit. In conclusion, I beg your excellency to please wait a few days more, in order to come to a final resolution about what is to be done with the said ship.

I avail myself of this new opportunity to repeat to your excellency the assurances of my particular esteem and of my most distinguished consideration.

AURELIO G. Y GARCIA.

His Excellency C. E. DE LONG,
Envoy Extraordinary and Minister Plenipotentiary of United States of America.

A true translation.

J. FREDERICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 8.—Translation.]

Mr. Garcia to Mr. Long.

No. 3.] YEDO, *March* 6, 1873.

SIR: It has come to my knowledge, and is publicly known, that some years ago the Japanese government signed an agreement with the representatives of the treaty powers, in virtue of which the citizens and subjects of non-treaty powers, when coming under the jurisdiction of Japanese courts, would be tried only by a court composed in a certain particular manner agreed upon.

Afterward the government of Japan, wishing to annul the agreement, asked that it might be amended, in consequence of which a new convention has been signed on the subject by this government with the foreign diplomatic agents present at the time.

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Having arrived in this country after the events referred to had transpired, it would be very interesting to me to possess a copy of the documents and correspondence upon this matter, and I would be exceedingly thankful to your excellency if your excellency would oblige me by furnishing me with a copy of them.

I have the honor to be your excellency's most obedient servant,

AURELIO G. Y GARCIA.

A true translation.

J. FREDERICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 9.]

Mr. De Long to Mr. Garcia.

No. 66.] UNITED STATES LEGATION, JAPAN,
March 8, 1873.

SIR: Acknowledging the receipt of your excellency's note of yesterday's date, I have the honor in reply to herewith forward the copies of documents as requested.

No. 1. Note from minister of foreign affairs to C. E. De Long, dated September 12, 1872, announcing the organization of a new court for Kanagawa.

No. 2. C. E. De Long in reply, same date, calling attention to this action being in violation of the Yokohama municipal convention.

No. 3. Minister in reply, September 8, 1872, denying the existence of the convention referred to, and claiming the right to organize the court in question, as they had done.

No. 4. C. E. De Long in reply, affirming the existence of the convention, and calling for express recognition or repudiation of the same.

No. 5. Minister in reply expressly repudiating the same.

No. 6. De Long in reply expressing his regret, and promising to report the correspondence to his government.

No. 7. Japanese ministers, of date October 15, 1872, asking to renew the correspondence on this subject.

No. 8. Japanese ministers to De Long, January 12, 1873, proposing an amendment to municipal convention.

No. 9. De Long in reply, assenting to the amendment with slight modification.

No. 11. C. E. De Long, January 29, 1873, to foreign representatives advising them of the amendment proposed by the Japanese government, and asking their views.

No. 12. Copy assent of diplomatic corps as indorsed on original circular letter.

No. 13. C. E. De Long to Japanese ministers, February 9, 1873, announcing the assent obtained and assenting to same on account of United States and Holland.

No. 14. Japanese government assenting to the amendment formally.

No. 15. C. E. De Long to United States consul, notifying the amendment as in force.

No. 16. C. E. De Long to Japanese ministers, notifying this action, February 16, 1873.

No. 17. Japanese ministers to R. B. Van Valkenburg, United States minister in Japan, dated December 19, 1869, assenting on part of Japanese government to adoption of original convention.

No. 18. Copy of municipal convention for Yokohama adopted in year 1867.

This, your excellency, comprises in my opinion a complete list of the documents requested by you, which I trust will prove acceptable, and I beg you to command any such further matter as you may desire.

I have the honor to remain, sir, your most obedient servant,

C. E. DE LONG.

His Excellency AURELIO G. Y GARCIA,
Envoy Extraordinary and Minister Plenipotentiary of Peru in Japan.

[Inclosure 10.—Translation.]

Minister of foreign affairs of Peru to Mr. De Long.

FOREIGN OFFICE, LIMA, *November* 8, 1872.

I have the honor to acknowledge the receipt of your excellency's letter, dated 19th of August last, in which, after calling my attention to a correspondence previously addressed to this department which did not come to my cognizance, you speak of the

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ncidents that occurred at your post in connection with the ships Cayatte and Maria Luz.

Awaiting further communication from your excellency, particularly with regard to the latter of the said ships, and rendering you the fullest thanks for your officious intervention in favor of the affairs of Peru, I have the honor, &c., &c.,

F. DE LA RIVA AGUERO.

To Hon. C. E. DE LONG,
United States Minister, in Japan.

[Inclosure 11.—Translation.]

Peruvian minister for foreign affairs to Mr. De Long.

FOREIGN OFFICE, LIMA, PERU, *November* 21, 1872.

I have had the honor of receiving your excellency's important dispatch, dated 5th of September last, by which you were pleased to make me acquainted with the proceedings of the kencho against the captain of the Peruvian ship Maria Luz, inclosing at the same time copies of the judgment rendered by that tribunal, and of some documents connected with that affair.

Although there had been received some notice in this department of the unpleasant incidents that had arisen from the said ship being forced to cast anchor in the waters of Yokohama, your excellency's dispatch, by its official character and the importance accruing to it from your excellency's eminent position, was welcome to gratify my government's urgent want of learning this affair from authentic and official data.

While I beg to render my thanks to your excellency for the warm interest you have taken in the above-mentioned incident, not only in forwarding us those data, but what is more still, in taking official action toward the Japanese government with a view to being recognized as Minister of Peru, I am anxiously waiting for the answer that government will have made to your excellency's letter on that subject.

Considering, besides, that there is no reason why the Japanese government should be prevented from acknowledging your excellency, since the representation of this country had been recommended to your excellency long before the Maria Luz affair, my government is very well founded in anticipating that your excellency will have come in a position to be able in that emergency of giving the republic the very important support of your cultivated opinion, of influencing the judgments and resolutions of the Japanese governments.

At all events, even depending upon the kind support of your excellency and that of the Government of the United States, by whom the management of Peruvian affairs was recommended to your excellency, my government expects that your excellency will soon have an opportunity of manifesting your friendly interest for Peru. I allude to the shortly-expected arrival at your port of the Peruvian legation, which was ready to leave when the news of the Maria Luz affair reached here.

The main object of the said legation is to enter into relations of amity and compass treaties of commerce and navigation with China and Japan.

This mission is absolutely one of peace, and they carry the most equitable instructions in view of a friendly settlement of the difficulties which lately arose in Yokohama.

My government have no doubt that your excellency, in accordance with the previous recommendations of the Government of the United States, will exert your influence with the Japanese authorities, not only to secure for the Peruvian legation such a kind reception as they are entitled to on account of their errand, but also to see that due justice be done them in the case of the Maria Luz.

It is more than probable that by this time the voice of reason has made itself heard in the councils of the Japanese government.

Considering the protest of the majority of the consular body against the decision of the kencho, and the no less legitimate than effective influence which is morally exercised by the representatives of the United States on the Japanese government, a mere suggestion (indication) will, perhaps, be sufficient to induce them to do us justice. If this be so to happen, one more motive will be added to those which Peru already has of being grateful to the United States.

I have, &c.,

F. DE LA RIVA AGUERO.

[Inclosure 12.]

Mr. De Long to Mr. J. de la Riva Aguero.

No. 48.] UNITED STATES LEGATION,
February 18, 1873.

SIR: I have the honor to acknowledge the receipt by last mail of two dispatche from you, dated respectively November 8, 1872, and November 21, 1872, both relating

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to the dispatch of our legation from Peru to Japan, and referring to the Maria Luz business.

After carefully perusing them, I concluded that you must desire that I should indicate the views you entertained in relation to the Maria Luz matter, and the nature of the instructions relative to that subject which your embassy would come with.

Thinking it best to give your ideas in your own language, rather than attempt to set them forth myself, I took your note of the 21st of November with me to the foreign office, and advised the minister that I had received two dispatches from Peru; that I was aware that extravagant reports had been spread, and obtained some credence, to the effect that Peru proposed to inaugurate hostilities, which belief I thought it my duty to give him an early opportunity to deny, and at the same time I felt it to be also a duty to let him know that an adjustment of the Maria Luz affair was one of the matters of business with which he would have to deal with this legation; therefore, although not so directed to do by the government of Peru, yet I felt that your government could have no objection to my reading to him two passages occurring in your latest dispatch, which I accordingly did.

The phrases which I read to him are those in which you say: "I allude to the shortly-expected arrival at your port of the Peruvian legation, which was ready to leave when the news of the Maria Luz affair reached here," and the following:

"The main object of the said legation is to enter into relations of amity and compass treaties of commerce and navigation with China and Japan. Their mission is absolutely one of peace, and they bear the most equitable instructions in view of a friendly settlement of the difficulty which lately arose in Yokohama."

For which act of politeness the minister thanked me, but expressed no other sentiment.

I sometimes fear that you may not be pleased with my action in having done this, but I assumed the responsibility in order to quiet serious apprehensions that were arising in the minds of the Japanese; to keep this Government from becoming biased and imbittered in advance against your legation, and at the same time to allow them to know that this matter was one of the things they should propose to arrange.

I sincerely hope I made no mistake by this action.

I thank your excellency for your many kind and flattering assurances.

If my action has been of any benefit to your government or to yourself I feel amply repaid for any trouble it has caused me by the knowledge that I have been enabled, to some slight extent, to knit still closer the ties of friendship which bind my Government to your own, and I assure your excellency of my ready willingness to still further exert myself in the furtherance of establishing amicable relations between Peru and Japan.

I have, &c.,

C. E. DE LONG.

No. 255.

Mr. Fish to Mr. De Long.

No. 182.] DEPARTMENT OF STATE,
Washington, March 10, 1873.

SIR: Your dispatch of the 22d January last, relating to a rumor that Peru is about to send an armed expedition to Japan for the purpose of demanding redress for the Maria Luz affair, has been received.

The Department is without any information whatever regarding the expedition above referred to; and it approves the course taken by you in the matter.

In my instruction No. 175, of the 28th ultimo, I informed you of a conversation with the Peruvian minister to this Government, on the subject of the affair of the Maria Luz, but from that conversation I drew no inference of any military or hostile expedition. It was a commission of which the minister spoke, and, as he gave me to understand, for the purpose of explanation.

I am, &c.,

HAMILTON FISH.

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No. 256.

Mr. Fish to Mr. De Long.

No. 187.] DEPARTMENT OF STATE,
Washington, March 21, 1873.

SIR: Referring to my No. 175, I have now to say that the minister of Peru informed me yesterday that the special envoys from Peru to Japan therein referred to have arrived at their post and have been hospitably received by the Mikado and his ministers.

Colonel Freyre said that he was instructed by his government to say that it hoped that the United States would exert not only their moral influence but their good offices to bring about an amicable settlement of the affair of the Maria Luz, in which the government of Peru regarded that the flag of Peru had been insulted, and that the honor of the nation was affected. I replied that the people of the United States regarded the coolie trade with a very strong aversion, and that the Government, sharing the feeling, could do nothing which could be construed as approving it.

He said that in the case of the Maria Luz the laborers had been engaged by careful and responsible agents of Peru at Macao, and that the contracts were honest contracts. In proof of this he stated that each laborer cost over three hundred dollars before he was landed in Peru.

I consented to authorize the good offices of this Government to effect an amicable settlement of the question and to prevent a rupture, upon the condition respecting the coolie trade which had been insisted upon, and Colonel Freyre reiterated the wish of his government to have the good offices made available on those terms, and requested me to write immediately in order to catch the steamer leaving San Francisco on the first proximo.

I have therefore to instruct you that you are authorized to use the good offices of this Government for the settlement of the differences which have unhappily arisen between Japan and Peru. Before doing this officially, you will endeavor unofficially to ascertain whether it will be acceptable to Japan to receive the tender in the spirit in which we desire to proffer it, and whether there is a practicable middle ground on which the acts of Japan and the complaints of Peru can find common foothold and satisfaction. If you become satisfied that the good offices of the United States either will not be acceptable to Japan, or will not prevent a rupture, you will not tender them formally; but you will let both parties understand that we are ready to tender them whenever we can see that they will do any good.

Should you, on the contrary, be satisfied that both parties desire to avail themselves of our good offices, and that amicable relations may be restored through our efforts, you will say that the President, influenced by his strong desire to restore friendly relations and feelings between the two powers, with each of whom the United States are in such relations of entire amity and cordial friendship, has instructed you to tender the good offices of the United States for that purpose.

Whatever may take place you will avoid expressing anything but disapprobation of the coolie trade.

I am, &c.,

HAMILTON FISH.

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No. 257.

Mr. De Long to Mr. Fish.

No. 381.] LEGATION OF THE UNITED STATES,
Yokohama, Japan, April 21, 1873. (Received May 23.)

SIR: I have the honor to advise you that, some twenty days since, I received a private note from Señor Garcia y Garcia, the Peruvian minister, requesting me to call upon him at his legation in Yedo, which I did. Upon my arrival he informed me that he had concluded his statement of the case of the Maria Luz on behalf of his government, and that he wished to read it to me and hear my views before he sent it in.

This he proceeded to do, and I found it to be a most able and comprehensive document, concluding, however, with a demand for indemnity on behalf of the owners of the bark and that a salute should be fired to the Peruvian flag. In reply to the minister's inquiries as to what I thought of it, I replied that I thought his argument exceedingly able and exhaustive, and also agreed that his claim for indemnity was a logical sequence, but that I could not understand why he should demand a salute to be fired.

He replied that he felt called upon to demand something in behalf of his government as reparation for the outrage of the seizure of the vessel.

I replied that upon his arrival he and his whole legation had been most cordially received by this government; in fact, specially honored by being made for a number of days its guests by being quartered in the palace buildings; that, at the very first official interview he had held with the minister for foreign affairs, that officer had hastened to assure him, in the name of his government, that in seizing the Maria Luz and releasing the coolies the Japanese authorities had not been animated by any ill-feeling towards Peru or by any desire to wound the honor of that nation, but had been actuated solely by a desire to relieve suffering humanity—people of a neighboring treaty-power, who, claiming to have been kidnapped, were bound in slavery, and asked to be restored to freedom.

That, in my opinion, such a courtly reception and such a voluntary assurance should be considered entirely sufficient upon the point of honor. That to press for further concessions, and especially such as the one named, was to at once acknowledge on his part that he had not received satisfaction; and if the Japanese were to refuse to accord the salute, it would result in his being compelled to resort to war or submit to an affront. That the best friend of Peru could not conscientiously advise the Japanese to go further or do more than had already been done to appease ill-feeling; and, therefore, that I would strongly advise him to reframe his case so as to set forth that, the Japanese government having so cordially welcomed the Peruvian legation, and having so promptly disclaimed all intention of giving offense, this was accepted as a sufficient satisfaction by his government to itself, and he therefore contented himself by asking a pecuniary indemnity to be accorded to the private owners of the bark. The minister very readily acknowledged the correctness of my views, and remodeled his case accordingly: or, at least, he so informed me he would do.

I soon afterward called upon Mr. Mjeno Kagenori, second assistant minister for foreign affairs, (and now in charge of the department,) and advised him of what had transpired between the Peruvian minister and myself, substantially. I then asked him (as I had been requested by Senor Garcia to do) within what time the reply might be expected. In

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reply he advised me that he had received private instructions from Mr. Soyeshima prior to his departure to delay a reply until he returned from China.

I expressed my regret at this, stating that now, as the thing was situated, the best of humor prevailing, and the case of the Maria Luz being reduced to a simple demand for dollars and cents, it would be easy to at once adjust it by referring it to some arbitrator if a disagreement was the result of the negotiations, and then by giving Peru a treaty similar in all respects to those existing between Japan and other powers, the whole difficulty would be at once ended in a manner perfectly satisfactory to both, and the two countries be united in amicable relations. Mr. Mjeno replied that Mr. Soyeshima had also expressed himself as opposed to entering into any more new treaties giving extra-territorial rights.

I replied that I feared that if Japan should decline to enter into treaty relations with Peru upon as favorable conditions as she had with other powers, that it would be attributed to ill-feeling, and be pregnant with future difficulties; that I would strongly advise the offer of a treaty similar to the others, to be revisable when the others were to be revised, and if at that time Japan could free herself from the extra-territorial provisions with other powers she could do so with Peru and if not, it was certainly quite immaterial, as there were no Peruvian residents in Japan, and probably never would be any; that in fact it must be desirable to this government to have its treaty relations with all foreign states as nearly similar as possible.

Mr. Mjeno, in reply, acknowledged that he fully agreed with me, and promised to at once write Mr. Soyeshima, fully explaining all that had been done, and what I had advised, and asking his permission for him to at once proceed and conclude this business. This he did, and at the same time I addressed a private note to General Le Gendre asking him to state my arguments to Mr. Soyeshima.

Both Mr. Mjeno and Señor Garcia have since conferred with me as to whom I would suggest as an arbitrator, provided they could not agree. I replied that it would be very easy for them to agree upon some prominent officer of some power not specially interested in the question.

Mr. Mjeno mentioned his view as being in favor of a reference to the diplomatic corps resident here. I replied that for one I would not under any circumstances have anything to do with it, as my opinions were fixed, and I did not see how the British minister could well do so; that if they could agree upon some other member of the corps it would be very proper.

An answer from Mr. Soyeshima, by telegraph, is now daily expected, he being now at Tien-Tsin.

Trusting to your kind approval, I have, &c.,

C. E. DE LONG.

No. 258.

Mr. De Long to Mr. Fish.

[Extract.]

No. 395.] LEGATION OF THE UNITED STATES IN JAPAN,
Yokohama, May 8, 1873. (Received June 9.)

SIR: I have the honor to acknowledge the receipt of your instructions No. 175, of the 26th of February, 182 of the 10th of March, and 187 of the 21st of March last, relative to the Japanese-Peruvian matter.

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I read your No. 187 to the Peruvian minister, who expressed his entire satisfaction therewith. I then waited upon the Japanese minister and did the same.

He requested a copy, which I declined to give, on the ground that I had no instructions to do so, but I allowed him to make copious notes.

He expressed himself as deeply grateful for the kind assurances contained in your instructions. He complimented me upon my action in having anticipated your wishes by pursuing the course which I had already done, and remarked that he should call upon me freely in future, as he had done in the past, if any assistance was required.

No reply having been obtained from Mr. Soyeshima, the situation remains unchanged, and as it was at the date of my No. 381 on this subject. * * * * * * *

Deeply grateful for the approval contained in your No. 182, I beg to assure you that I shall labor to merit a continuance of your good opinion, and that in all I have done, or shall hereafter do, I shall not fail to vigorously oppose any effort, on the part of any man or nation, to establish or carry on a cooly traffic.

I have, &c.,

C. E. DE LONG.

No. 259.

Mr. De Long to Mr. Fish.

No. 416.] UNITED STATES LEGATION,
Yokohama, Japan, June 2, 1873. (Received July 5.)

SIR: By the courtesy of Señor Garcia, y Garcia, I am enabled to forward to you by this mail copy of the case presented by him to this government in the Maria Luz affair. (Inclosure No. 1.)

No answer has as yet been received, although this has been delivered now over sixty days. His excellency the Peruvian minister has become much annoyed by this delay, and I sometimes fear that negotiations may be abruptly broken off. The Japanese, by indirect overtures, I am informed, have essayed to get the minister to accept a treaty without the extra-territorial clause, promising, if he would do so, to at once adjust the Maria Luz case to his entire satisfaction. This proposal he at once indignantly rejected, and now believes that this unreasonable delay is worked with a view of trying to compel him to accept some such condition.

I am, &c.,

C. E. DE LONG.

[Inclosure 1.—Translation.]

Minister of Peru to Minister of Foreign Affairs.

No. 5.] LEGATION OF PERU IN JAPAN,
Yedo, March 31, 1873.

EXCELLENCY: In compliance with instructions which I have received from His Excellency the President of Peru, I have the honor to address your excellency the present communication in regard to the irregular proceedings of certain Japanese officers in the detention and prosecution of the Peruvian bark Maria Luz, proceedings all of

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which have, on account of their novelty, attracted the attention of the whole world, and which affect both the honor of the republic in whose name I speak and the interest of the citizens whom I represent.

Before relating the events connected with that exciting case; before examining the facts and demonstrating the unexpected wrong which has been done to Peru, and the injuries suffered by some of its citizens, and before I formally make against the Japanese government the just demand of my government, which is the direct object of this dispatch, I beg your excellency to permit me, following, as I always hope to do, the dictates of a perfect good faith, to bring to the memory the preliminary facts to which I alluded in the conference I held on the 5th instant with his excellency Soyeshima Taneomi, your excellency's worthy predecessor.

For some years past Peru had been observing with interest the rapid progress of Japan in its internal development and in its political and commercial relations, both countries being rich in productions, which, at the same time that they are different, are also much consumed, and in consequence highly esteemed in the one and in the other. They are also mutually favored by the facilities of maritime trade between them, as they are separated only by an ocean which, during nine months of the year, may be navigated without danger by every kind of ships.

Peru alone exports in very great quantities that indispensable article for the improvement of lands, and here so necessary, the guano. It also possesses the best and largest districts that produce saltpeter, borax, and iodine; and it produces likewise a large amount of sugar, Peruvian bark, coffee, cochineal, wools, orchilla, &c., articles which are wanting in this empire, and the consumption of which must gradually increase.

Japan, on the other side, exports silk, silk-worms, tea, porcelain, rice, timber, coal, and those varied manufactures of lacker, bronze, stones, &c., which are so much sought after in the different markets.

It thus came to be an aspiration of many thinking men of my country to regulate on lasting bases the commerce between the two nations; and not less than three years ago the mercantile circles and the press of Lima discussed and maintained the necessity of accrediting in this empire a legation which should conclude a treaty of friendship and commerce and navigation, as a means of giving solid guarantees to persons and capitals that might engage in the new speculations.

In the month of August, 1872, His Excellency Don Manuel Pardo, a distinguished statesman, and one of the most vigorous and clear minds of America, came into power as constitutional President of Peru. From his practical and discerning view could not be hid the mutual advantages to be derived from definitively establishing commercial relations with Japan, and appointed the undersigned his envoy extraordinary and minister plenipotentiary.

In order to show his high regard for His Majesty the Tenno, His Excellency the President ordered that this mission should go forth on board of two of our best men-of-war, the iron-clad frigate Independencia and the corvette Union, which were got ready immediately. Those ships were on the point of starting on their voyage when news was received in Lima, through the British legation, that a Peruvian bark had been detained in the port of Yokohama, and been *detained* subject to the action of a Japanese court, my government, with its accustomed prudence, waited in order to receive further details, which indeed soon arrived in abundance in periodical publications as also in the dispatches of Peruvian functionaries abroad. When this happened, Minister C. E. De Long who, since April, 1870, had been in charge of Peruvian interests in this empire, was unfortunately on leave in the United States. On his return, which was a short time after the detention of the Maria Luz, Mr. De Long learned everything that had occurred, and reported the whole officially to the government of Peru. In this way a complete knowledge was had in Lima of the undue haste with which the irregular proceedings referred to had been carried on.

With its usual foresight, the government of His Excellency President Pardo at once and properly came to the conclusion that the sending out of his envoy in the manner that had been resolved upon with so much anticipation would, after the detention of the Maria Luz, be maliciously taken hold and made use of by those who for some time have been showing so much interest in changing the facts and disfiguring the truth as a means of obtaining the triumph of those suggestions which finally made the Japanese authorities deviate from the natural and just path which at first they had adopted. My government then, in the manner most spontaneous, and only through reasons of delicacy and respect to the spirit of justice of the Japanese government, gave up the idea of sending out the naval squadron, and the undersigned was ordered to leave as soon as possible, with all the members of the legation, as simple passengers on board the mail-steamer.

In spite of this, and I beg to call your excellency's attention to it so that it may be known in all time, my government did not modify the nature and object of the mission, nor did the desire to establish bonds of friendship with this empire disappear.

The fact of there having been added to my primitive instructions a new one, that is

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to say the demand of satisfaction from your excellency's government for the wrong and injuries caused by the case of the Maria Luz, is founded on the confidence which the cabinet of Lima has in the spirit of justice of the Japanese government; and it is on this account that I still bring with me the intention of establishing permanent relations of friendship between our two countries. This task I consider easier after having heard his excellency Soyeshima, in our second conference on the 8th of March, say that in the affair of the Maria Luz the government of Japan had not acted with the intention of causing injury to Peru, or affecting the interests of its citizens, but only animated by the wish to do good and through a spirit of humanity.

Gratifying as it was to me to listen to those words, I hope that the perusal of the reasoned exposition which I now proceed to make will not be unsatisfactory to your excellency. After looking over it attentively your excellency will, I have no doubt, admit with me that however laudable good intentions may be, and I recognize them in the Japanese government, they can never justify a violation of a single one of the rights of an individual or of a state. The Peruvian bark Maria Luz, commanded by Captain Ricardo Heriera, a citizen of Peru, left the Portuguese colony of Macao, bound for Callao, on the 28th of May, 1872, carrying as emigrants two hundred and twenty-five coolies, under contract with Mr. Tanco Armero, an agent in that colony in representation of Senor Emilio Althaus, a resident in Lima, and twelve boys under contract with the captain himself. These contracts were clothed with all the formalities which the Portuguese regulations have established in order to avoid fraud or deceit, and besides had the certification of the Peruvian consul at Macao as a guarantee that it had been so performed. The protective laws of the two countries, which indeed are not in opposition with those of China, having been observed, those documents were of irrefutable validity according to the most common principles of international law, and of their execution or accidents the only parties that could take cognizance were the country where they were made, the one in which they were to be carried out, and the nation of the emigrants, that is to say, Portugal, Peru, and China. A few days after the vessel left she met with bad weather, and suffered damages of such a nature that for the purpose of refitting only she was obliged to bear up for Japan, and anchored in the nearest port, of Kanagawa, on the 10th day of July of said year. The local authorities made no objection to the entry of the ship in the port, and knowing perfectly well that she was a coolie-ship took in deposit her papers.

Until the 13th of July nothing occurred worthy of notice in the Maria Luz, the people on board being occupied in their work of repairs. On that day the British consul at Yokohama, Mr. Robertson, sent to the governor of Kanagawa, one of the coolies referred to, who, it was alleged, had been picked up in the bay alongside Her Britannic Majesty's ship Iron Duke. An incident like this, which constantly takes place in all frequented ports, is not a matter to attract the attention of anybody who knows the *ennui* which life on board always causes to those who are not accustomed to it, and the efforts which not only this class of emigrants, but also sailors and soldiers bound by similar obligations, continually make in order to elude their engagements after having profited by and spent the advances in money which they have received. Well did the Japanese authorities understand this when they sent back on board his ship the coolie that escaped, as is practiced with seamen deserters whatever their nationality may be.

A few days afterwards a second coolie swam to the Iron Duke, from which ship he was taken on shore and left free, but having been found there by the officers of the Maria Luz, he was carried back to the vessel.

The Maria Luz had already finished her repairs and was on the point of sailing for her destination, when, on the 2d of August, 1872, causing a general surprise, an event took place alone in the annals of international law, and of so dangerous consequences that it has not received the slightest approval of any of the respectable members of the diplomatic corps. The Hon. Robert Grant Watson, Her Britannic Majesty's chargé d'affaires in this empire, went on board the Maria Luz, when the captain was on shore, accompanied by an armed lieutenant and an interpreter in a man-of-war's boat. This extraordinary visit was followed by an inquiry practiced on board a vessel on which flew the flag of a sovereign nation, an old and very cordial friend of the United Kingdom, and to make the case more serious, if it could be possible, in the territorial waters of an independent state.

After having found out that the first coolie who deserted had his cue cut off, Mr Watson addressed on the next day a dispatch to your excellency's department, expressing his suspicion that he had been ill-used, a suspicion principally borne out that very fact of his cue having been cut off, a correction simple enough, and to which even that name can hardly be applied.

As Mr. Watson's letter referred to is the first document that appears in the official record of the proceedings of the Maria Luz case which your excellency sent me for inspection, I have been obliged against my own wishes, and only with the object of keeping the logical order of events, to bring to memory the preceding circumstances: but hereafter, doing homage to the high respect I profess to Her Britannic Majesty's

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government, I shall totally abstain from alluding to Mr. Watson's intervention, as that is the subject of another kind of discussion between the cabinets of Lima and St. James.

I devote myself now to examine the proceedings of the Kanagawa kencho, which, having been controlled and afterward approved with marked pertinacity, in spite of the timely protest of the consular corps, by the guaimsho, make the responsibility of those acts fall on the Japanese government. That court was void on account of the following defects:

1. Want of jurisdiction.
2. Illegality of its constitution.
3. Arbitrary course of its proceedings; and
4. Want of independence in its judgments.

The intervention of the Japanese authorities, or of those of any other country, in consequence of acts practiced on board of a foreign vessel, can never be admitted, according to the most common principles of the laws of nations, if those acts took place on the high seas, or in the waters of another state.

If in the territorial waters of Japan the peace of the port should be disturbed, or the public or private interests of its inhabitants affected, then the intervention of the local authorities is justified; but they cannot interfere in acts which refer only to the mere interior discipline of the ship.

Now let us analyze the three acts which are charged against the captain of the Maria Luz as having been done during his stay in the bay of Yokohama, and let us see to which class they belong.

The act of cutting off three of the Chinamen's cues was intended to suppress a conspiracy, checking them in that way; a power which every captain can exercise on board his ship; a private act which certainly is not a crime, and neither is it an affront, as very few Chinamen use their cues out of their own country.

The accusation of punishment having been inflicted on the coolie who swam to the Iron Duke, and afterward was returned to the Maria Luz, and of other coolies having also been cruelly treated, never was preferred by the man himself, or by any of the persons said to be ill-treated, to any judicial officer, nor even to the Japanese policeman on board; it was only alleged by other persons for them, and not as witnesses, but merely upon inferences. Hence the impossibility of continuing the criminal proceedings which were instituted against the captain.

The restraining of the emigrants from leaving the ship was justified by the tenor of their contract, which authorized every captain to do it, as a means of preventing their being eluded.

Even supposing, however, that it had been right to proceed against the captain, the causes adduced by the Japanese authorities themselves for bringing the whole of the coolies ashore, and for continuing the inquiry, are wholly insufficient. Thus, the letter of Mr. Benson, dated August 8, (inclosure No. 1,) and the reports of Messrs. Hayoshi and Hill, dated the 15th of the same month, (inclosure No. 2,) show that the only complaints lightly preferred by the coolies had reference to acts alleged to have taken place out of Japanese jurisdiction, and the declaration of the governor, Mr. Oye Takee, before the court on the 19th August, shows that the emigrants were brought ashore and the inquiry continued with the object of investigating alleged complaints of kidnapping at Macao; that is to say, arrogating the right to investigate acts supposed to have taken place out of Japanese jurisdiction, and not piratical in their nature.

It will be well not to forget that the Maria Luz carried on board a number of emigrants under contracts entered into freely and spontaneously by them, in accordance with the laws of Portugal and of Peru, which allow this traffic, at the same time that it is not prohibited by the laws or customs of Japan. These facts were proved in the course of the proceedings by the exhibition of the certified contracts, the sea-license passport of the Macao emigration superintendency, bill of health, and the other ship's papers, the whole in proper order. In spite of so convincing evidence the greater portion of the "inquiry" was occupied with investigations into those very contracts; that is, into acts accomplished out of Japanese waters, giving thus in the inquiry more weight to the assertions devoid of proof of the coolies than to the unquestionable evidence offered by the documents above mentioned, which the kencho completely disregarded both in the proceedings and in the decision.

In this connection I think it opportune to recall here the reply, dated 15th day of the 8th month, 5th year of Meiji, given by his excellency Mr. Soyeshima, minister, then, for foreign affairs, to the complaint of his excellency Viscount de Son Jamacio, His Most Faithful Majesty's envoy extraordinary and governor of Macao, in which Mr. Soyeshima literally says: "At no stage of the proceedings has the government I have the honor to serve questioned that the government of His Majesty the King of Portugal has done all that is thought necessary to secure that the emigration of Chinese subjects from Macao should be conducted in accordance with the principles of justice and humanity; and no tribunal of Japan has or will hastily presume that the rules which guide the emigration from Macao, and which were framed with the view of protecting

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Chinese subjects, were other than calculated to meet the object in view." (Appendix F to the official publication made by the gnaimsho on the case of the Peruvian bark Maria Luz.)

If another proof were wanting of the legal manner in which the Macao authorities observed the existing rules and regulations in the contracts, embarkation, and dispatch of the Maria Luz emigrants, I beg to refer to the inclosed copy of dispatch and accompanying certificate which I have received from the governor of that colony, (inclosure No. 3,) for which document I have been waiting on account of its inestimable value.

In order to demonstrate the illegal constitution of the court, and which comprises the second point of invalidity, it will be sufficient to analyze the express tenor of the convention of October 28, 1867, (inclosure No. 4,) concluded at Yedo between the representatives of England, France, United States, Prussia, and Holland, and accepted in all its parts by your excellency's government in the dispatch dated the 22d day of the 11th month, 3d year of Kei, addressed by his excellency the minister for foreign affairs, Ogasawora Iki no Kami, to Messrs. Van Brandt, the American and Prussian ministers, and to other foreign representatives, in which dispatch it was said:

"The regulations of police and roads within the foreign settlement of Yokohama, being negotiated between your excellency and the English, Netherlands, and Prussian ministers, is sent to me by the English minister.

"I have also agreed with it, and taken in the moment Mr. Martin Dohmer, in the English consulate, in service, to charge with the police of settlement.

Inclosing the said regulations I have to bring it to your excellency's notice. (Inclosure 5.)

This approbation of the Japanese government was communicated to the Government of the United States by their minister, Mr. Van Valkenburgh, in a letter dated November 16, 1867, as may be seen on page 73, part 2, of the United States Diplomatic Correspondence for 1868. (Inclosure 6.)

Section fourth, of the said convention, provided that the only court that could have jurisdiction over the subjects and citizens of non-treaty powers residing within the Yokohama settlement, or within the port of Kanagawa, was one composed of the governor of Kanagawa, acting with the advice and assistance of the foreign director, and with the advice of the foreign consuls if obtainable.

The above section of the convention has been acted upon by the Japanese authorities, in proof of which it is sufficient to cite the letter of Mr. Mutza Munemitzu, governor of Kanagawa, dated June 3, 1872, (inclosure 7,) a few days before the arrival, in distress, of the Maria Luz, addressed to the foreign consuls, concerning a complaint made by Captain Spinks, of the Tunisian steamer Sadkia, against his crew, and in which the governor requests the consuls to attend at the investigation of the complaint in accordance with the convention concluded October 28, 1867.

Nevertheless it appears from the original records of the Maria Luz proceedings that neither did the foreign director form part of the court nor was the advice of the consuls taken, so that a tribunal was created which had no legal jurisdiction in that case.

But the Kanagawa kencho was found not only violating the fourth section of the convention of Yedo, but was not even organized as a duly constituted Japanese court, or tribunal, since it was partly composed of persons who did not belong to it and who had no right to act in it. Among others there sat with the konni two American lawyers, one of whom was a mere practitioner, and an English judge, by all of whom many questions were put directly to the witnesses and by whom suggestions were made which appear to have been acted upon by the court.

Now the functions of a tribunal, especially when sitting more or less as a criminal court, are sacred and can hardly be delegated to any persons whatever other than the duly constituted members of that tribunal, and least of all to persons who are not only not citizens of the country but are not even within its jurisdiction. Such, unquestionably, is the law and practice of all civilized communities, and such, also, I am sure, must be the custom of the Japanese Empire in its relations with the citizens of other states. That the proceedings of the kencho were not only arbitrary but violative to all legal forms indispensable in the rightful administration of justice, which constitutes the third point of invalidity, is easily shown by following the concatenation of its very singular acts.

No distinct verbal or written notice was ever given to Captain Heriera of any of the charges which were imputed to him, and so, moving entirely blind, he lost his ship and passengers. Under the enormous weight of a degrading criminal action he was simply ordered to attend at the saibansho. (Inclosure 8.)

Upon the representation made to them the Japanese authorities ought to have instituted on board a preliminary investigation before commencing proceedings. This was not done, but some days afterward an inquiry was made by their officers, Mr. Benson and Mr. Hayashi, into the truth of the alleged ill-treatment, and this inquiry did not only not bring out a single proof of any offense having been committed by the captain

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within Japanese jurisdiction, but negatived completely the suspicions upon which the inquiry in question was instituted. (See inclosures Nos. 1 and 2 referred to.)

The above-mentioned reports are corroborated by the ample, strong, and incontestable evidence given before the kencho on the 19th September, 1872, by Captain McDonald, Captain Purvis, and Mr. Bevill. The first-named, a Lloyd surveyor, and for many years a master mariner, deposed that the ship was fitted out as any other ship; that she was equal to any coolie-ship of India or China, and that the passengers seemed to be comfortable.

Captain Purvis, of the royal navy, and English naval officer of thirty years' standing, declared: that he went on board the bark the first day she came in; that he went round the ship and found her clean; that the accommodations seemed to him better than that of many other ships he had seen; that having been on board several times afterward he found no difference; that the coolies were not confined, they were amusing themselves smoking and playing cards; that when he was in the British Peninsular and Oriental Company he heard of cases where first-class passengers were confined to their cabin, as the captain had authority over any passenger, whatever his rank may be. He added, that the berths were longer by two and a half inches than those of men-of-war; that the ventilation was better than on a man-of-war, and the height a good deal greater than in other ships.

Mr. Bevill, a sub-editor of the Japan Mail, a newspaper which throughout the proceedings manifested a bitter hostility to the Maria Luz, said that the appearance of the passengers struck him as being very favorable, and that they looked well fed and healthy; that he once sailed in an emigrant ship from England, and one adult and about fifteen children died on the voyage; that in that ship the food was kept short, and there were constant complaints about it; besides she was very dirty, while the Maria Luz was clean and good-looking; that he had also been on steamers, and in one case had seen the captain exercise his authority over a first-class passenger, detaining him on board because he could not pay his passage. Again, notwithstanding that the suspicions on which were founded the representations made in order to detain the Maria Luz and institute proceedings were completely destroyed by the official report of Messrs. Benson and Hayashi, sent on board commissioned for that determinate object, and in spite of the right which the contracts gave the captain to restrain the emigrant coolies from leaving the ship during its accidental stay in Yokohama, the "inquiry" was continued, and on the 22d August the whole of the coolies were brought ashore in charge of Japanese policemen, a proceeding, which, according to the statement of Mr. Oye Take, before mentioned, was intended to interrogate them about the charge of their having been kidnapped as it was said at Macao, and other acts of similar character all supposed to have taken place in foreign jurisdiction.

The bringing ashore of the coolies was thus done with an illegal object, but even admitting that it had been so they would only present themselves at court as witnesses or as plaintiffs; if they were brought as witnesses they never acted as such upon complaints of acts done within Japanese jurisdiction, simply making allegation on their own behalf and without even proving the allegations of others of them. If they were all *plaintiffs* some preliminary inquiry should have been held on board to substantiate their complaints, to find out if a clear case would be made out, justifying the institution and prosecution of a regular criminal process; that requisite was not complied with.

And not only this, but the coolies were brought ashore without giving the captain any guarantee that they would be returned on board, or he be indemnified if it should turn out that the alleged accusation was baseless or capriciously made, as it happened. Thus, only the interests of the coolies were attended to without taking the least care of those of the captain or charterers; nor was any attention paid to the protests of Captain Heriera nor to those of the foreign consuls (inclosure No. 9) made against the course of action adopted by the kencho, who simply referred the matter to your excellency's department, who at once ordered the court to disregard them, (inclosure No. 10,) that is to say, that the principles of justice and existing international obligations should be sacrificed directly injuring the interests of citizens of Peru; such was the tortuous path that was followed until the final and unjust sentence was pronounced.

Finally, in undertaking and commencing these proceedings, in the course of them, and in coming to a decision the kencho did not exercise its own independent judgment, but constantly obeyed the pressure of an executive department to which it owed no obedience. Thus, we see in the record that the court commenced proceedings not upon the complaint of any interested party, but at the order of the gaimsho, so that the very court which was to judge the matter because the prosecutor in this way combining two perfectly incompatible functions.

The same practice was observed by the kencho through the course of the proceedings, which were conducted under the direction of the gaimsho, to whom most questions of importance were referred, just as if the court were a mere sub-department of the foreign office. Thus, the kencho obeyed the orders of the gaimsho with respect to the

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protests of the captain and of most of the foreign consuls against the infringement of the convention of Yedo of 1867.

Lastly, if we subject the finding and judgment to an impartial and critical inspection, we discover in their form and style that they were not the products of an unbiassed deliberation of the court, but the foregone conclusions of outside and irresponsible advisers, to which your excellency's government gave its anticipated sanction.

I beg your excellency to permit me, before making a recapitulation of the facts which have been demonstrated, not to close this dispatch without alluding once more to Minister Soyeshima's words in our conference of the 8th March and in which, speaking of the Maria Luz, he told me that "in that case his government had proceeded animated only by sentiments of humanity." It is not possible for me to pass by unnoticed the expression of a sentiment which I profess and respect, as it tends to comply with the wholesome precepts of morality. This may be the proper moment, sir, since the case of the Maria Luz has been discussed with so much exaggeration and passion, and charges of abuses, cruel treatment, and the like, have been invested, to bring to your excellency's knowledge the official statement, printed in the inclosed number of the Bulletin of the province of Macao and Timor. (Inclosure No. 11.) In that report, on the movement of colonists in the year 1872, the superintendent of emigration says: "I beg also to report in this place, that many of the emigrants who in that bark (the Maria Luz) put into Japan, have again emigrated through this superintendency in several ships, and they continue, from time to time, appearing in small numbers in order to re-embark again, with the greatest satisfaction."

In addition to and in connection with the above I may also quote the following paragraph from a letter I have received from the consul of Portugal in Yedo, dated the 16th March:

"I have seen in the Macao Gazette," says Mr. Loureiro, "that the steamer in which Captain Heriera left as first officer took on board many of the emigrants that belonged to the Maria Luz, and they were recognized without difficulty."

I leave to the impartial judgment of your excellency and of the imperial government the appreciation of such eloquent facts; they will answer better than my words can do it, if it was possible that those emigrants could have been kidnaped or cruelly treated by the captain of the Maria Luz.

The so-called coolie-trade about which, with so much emphasis and such bitter exaggeration, has been spoken, mostly by writers who have not taken the pains to study the physical and moral advantages obtained by the emigrant, particularly in Peru, is nothing else but the free and spontaneous emigration of a very small part of the exuberant population of the celestial empire, which is frequently subject to the horrors of hunger, wars, and pestilence, unavoidable among so immense an accumulation of people.

Transportation being offered to them their services are afterward well paid and their persons and rights protected. It is a current solicited by all agricultural countries which, like Peru, California, Cuba, and many French and English possessions, own rich virgin land which the intelligent hands of man transforms into new countries of universal prosperity.

Articles fifth and ninth of the convention between China and England and France, concluded at Peking on the 24th and 25th of October, 1860, and article 10th of the treaty of amity, commerce, and navigation, made with Spain at Tien-Tsin on October 10, 1864, recognize the right which Chinese subjects have to emigrate to British, French, and Spanish colonies. (Inclosure No. 12.) I also beg your excellency to read the convention of March 5, 1866, signed at Peking by the Prince Kung with the English and French representatives, Sir Rutherford Alcock and Mr. Henri Bellonet, which regulates in all its details, the Chinese emigration, and which was approved by the Emperor and has become a law of the empire according to a declaration made by the Prince Kung on the 22d of May, 1868.

In spite of all this, what treatment was given to one of the many ships which annually leave China for different countries? The Peruvian bark Maria Luz, which, by stress of weather, was driven on the shores of Japan, always regarded by Peru as hospitable? Her present abandoned condition in the bay of Yokohama may fitly answer for us.

That was an unusual persecution to which never were subjected, in any country Peruvian ships engaged, like the Maria Luz, in the transportation of emigrants. Never did the authorities of Honolulu molest in the least the frigate Zayla, Macao, Don Juan and others which have voluntarily entered their ports, nor have those of Batavia troubled any of the ships which, making the voyage by way of the straits, have touched on the coast of Java, nor has ever the circumspect governor of the British colony of St. Helena interfered with any of the vessels which continually touch there bound for Havana. Among these last I may name the Peruvian ships America, Macao, Amora and various others. What took place, then, with the Maria Luz has no parallel in the annals of history, (not even in that of this country, which did not at all annoy us

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other emigrant ship, the F. H. Palmer,) nor is it supported by any principle of law or justice.

I may go even further in my argument, and will suppose that the emigrants of the Maria Luz had been slaves, (who do not exist and cannot exist in Peru,) and even in this hypothetical case the Japanese authorities had no right to exercise jurisdiction over the ship or its passengers. In this connection I need only present to your excellency's consideration the important case of the American bark Creole. This vessel, carrying on board slaves in revolted condition, put into Nassau, a British port, in 1841. Slavery was then, as to-day, prohibited on English territory. A number of the slaves escaped ashore, favored by the British authorities, but without any forcible interference on their part. In consequence of this, restoration of the slaves was demanded by the United States, but not acceded to by the British government. Afterward, a claim for indemnity having been made by the Americans, it was referred to a mixed commission, and the decision was in favor of the United States, to whom an indemnity was paid by the English government. (See Lawrence's-Wheaton's International Law, part I, chaps. 2, 9; note 70 by the editor.)

Hence, if the British authorities were wrong in merely *officiously* interfering with a trade which was *unlawful* according to the British law, much more are the Japanese authorities responsible for a *forcible* interference on board a ship occupied in a trade *not condemned* by law, and which has been regulated even in its details by the laws of some countries, as China, Portugal, Peru, France, Spain, and England herself. (See the Chronicle and Directory for China, Japan, and the Philipines, which contains the various ordinances and acts on Asiatic emigration and Chinese passengers.)

Now, then, in the case of the Peruvian bark Maria Luz, recapitulating the preceding facts, it appears that:

1. The so-called tribunal, created in order to institute proceedings against the ship, without having jurisdiction on the matter, detained the vessel and condemned a Peruvian citizen to a degrading punishment for alleged offenses said to be committed out of Japanese jurisdiction.

2. By finding the captain guilty of forcibly restraining the coolies on board, the court took upon itself to deny the validity of contracts on their face perfectly genuine.

3. The order to bring the whole of the emigrants ashore, based only on mere suspicions, was given without any guarantee to save the interests of the captain and the charterers.

4. Even supposing the subject-matter of the proceedings to have been within the jurisdiction of a Japanese tribunal, the kencho was composed, not only violating the convention of 1867, but in addition was composed in part of members who could not by any possibility be recognized as having any right to sit on the bench of a Japanese court of justice. The proceedings and decisions of the kencho were consequently null and void, and as the former as well as the latter were directed and approved by your excellency's government to the great damage of the interests of Peruvian citizens, your excellency's government is responsible for those damages.

5. Notwithstanding the assurances given by the governor that the "inquiry" was only a preliminary one, what was instituted and continued against the captain was a criminal process, and then in it were omitted a distinct direct charge made by the alleged offended party, and a proper notification of it duly served upon the captain, violating in this way the most sacred guarantees by which in every constituted community the honor and the interests of persons are protected.

6. The captain was found guilty only on mere allegations of interested parties, not mutually corroborative, but very frequently self-contradictory, and not subjected to cross-examination. No evidence was heard on the part of the captain. His protest and those of the consuls were disregarded, and under the bewildering influence of such extraordinary haste sentences were rashly pronounced without any proof.

7. The court having been entirely controlled in its proceedings and judgments by the gaimsho, the kencho throughout this unfortunate trial only played the part of a subordinate section of an executive department, constantly looking up for new inspirations to the superior council which had in so anomalous a manner been created.

The responsibility of such acts rests, then, wholly in your excellency's government, which, having accepted an arbitrary representation, given to it sufficient importance to serve for the institution of a trial, aided in the prosecution of it, and having finally approved its consequences, was the cause of a Peruvian ship having been detained and abandoned, with great injury to its owners and charterers. But great is also my confidence in the uprightness and spirit of justice of the Japanese government, which, I am sure, will not hesitate one instant following its frank, noble, and satisfactory avowal made to the undersigned at an official interview, to the effect that in its action relative to the Maria Luz *no intention existed to wound the honor of the republic of Peru*, in making reparation for the damages caused by paying a just compensation to those of its citizens who have been injured. Your excellency's government will thus increase its prestige, proving to the world how much it values and respects the inalienable rights of sovereign nations.

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It has been, excellency, painful to me to have to commence my regular correspondence with your excellency's government by presenting a claim which, in view of its peculiar nature and circumstances, it was impossible to pass over in silence; but, founded as it is on strict right, I firmly believe that, it being so acknowledged by the Japanese government, we shall be able to fix on the immutable principles of justice the relations of our two countries, which are destined to cultivate the closest bonds of friendship.

I avail myself of this opportunity to renew to your excellency the assurance of the high and distinguished consideration with which I have, &c.,

AURELIO G. Y GARCIA.

A true translation:

J. FREDERICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 1.]

Mr. Benson to Sanquii Fau.

MUNICIPAL OFFICE, YOKOHAMA, *August* 8, 1872.

SIR: In compliance with your request I visited, yesterday afternoon, the Peruvian bark Maria Luz, having on board a number of Chinese coolies bound from Macao to Peru.

I was accompanied by Mr. Bata, a Japanese officer and Chinese interpreter, attached to this office. Below the deck I found the men in as comfortable quarters as is usually provided for Chinese steerage passengers, their general appearance giving no indication of insufficient food or bad usage. Several of the men were brought aft and questioned. They all said they have enough to eat and were not ill-used. They complained of having been kidnapped in Macao, and implored assistance. I inspected some of the food that had just been prepared for the afternoon meal. It consisted of rice, fish, and a sort of cabbage, and appeared to be clean and well cooked.

In relation to the replies to questions as to food and treatment, I respectfully suggest that you seriously consider whether the fear of punishment after the vessel leaves port has not strongly influenced these men against making any complaint against the captain.

The captain informed me he would be ready for sea in three days.

With respect, &c.,

E. S. BENSON.

A true copy.

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 2.]

Translation from Japanese minutes of visit to ship, return, and report of Hayoshi Gontenji and Geo. Hill.

On the 14th day of the seventh month, at one and a half o'clock p. m., I went on board the Maria Luz, and calling from below a few of the Chinese into the cabin, questioned them. Coolie No. 1 stated: I am employed for eight years; have received no wages. Left Macao on the 22d day of fourth month. Signed contracts on board ship 19th of fourth month. Since went on board ship have never been on shore. If I work one month I will get wages from the captain. Was employed as cook on board ship, and have done some work on board; have worked since ship left on 22d fourth month. The men who are doing work on ship are about eighteen. I have been told by Chinamen that we ought to go to Peru. Have sufficient provisions, and no complaint.

Coolie No. 15 stated: We left on 24th of fourth month. Signed contract on 18th of fourth month. Received $8 on shore. I have spent $4 on shore and lost $4; am entitled to receive $4 per month. Was told I was to work on board, but have never done so. The hatches were closed to prevent me going on shore. The captain has prevented me from coming on deck. I only learned that the ship would leave Macao in a few days, but did not learn where she was bound to. Was told by the captain I was to work for eight years. Don't know what sort of work, only told must work. When I signed the contract there were about 240 men together. Contract was read to me on shore by a foreigner in the Chinese language. Just now, I think, I am bound for Peru by the contract. Since I came to this port have not had sufficient food only twice a

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day. Iam not allowed to go on deck until I get to Peru. Signed contract on this ship; it had been read to me before. The captain treats me well, but the head men very badly.

Coolie No. 5 stated: Latterly we have had sufficient provisions, but for a few days not enough. Don't know where I am to go. Received $8 and spent it. I am to work one year for the $8. The head men always prevented me from going on deck. One day I was tied to the mast and beaten by the Chinaman No. 8, a head man, with a ratan. Am not allowed on deck either in fine weather or foul. The head men are permitted on deck.

Coolie No. 8 stated, (showing a stick:) This is the stick I beat No. 5 with. I was ordered to do so by the captain. The contract was read to me by a Peking man. I came on board the ship four or five days before the ship left, in a small boat with four or five other Chinese. The contract was signed two days before the ship left. I was forced to sign by a foreigner. The contract was brought from on shore with me. No one threatened me with a pistol or other arms when the contract was signed.

After I had examined these coolies one by one in the cabin I went with Mr. Hill, and bringing Ching Ching, the interpreter, down into the hold where the Chinese were, I informed them through the interpreter that while they were in port they would have the protection of the Japanese government, but that if they made a difficulty and were guilty of any offence, they would certainly be punished.

I then passed through the hold. Certain of the coolies came to us saying, through the interpreter, that they had been kidnapped and praying for the assistance of the government. Some of their numbers I took as follows: 187, 182, 157, 175 (changed from 176.) No. 5, who seemed very ill, and 160, who appeared very sullen. While I was taking down these numbers the others gathered together around me with great cries, and in the most earnest manner begging for assistance. They so pressed upon us that I was obliged to tell them their case would be looked into further. I could hardly escape from their importunity. I left the ship about 5 o'clock p. m.

(Signed) HAYOSHI GONTENJI.

I have read foregoing translation of the returned report by M. Hayoshi Gontenji, and have compared it with the minutes kept by myself on the same occasion, and find it to be correct.

We found all the Chinese passengers confined below deck.

G. W. HILL.

A true copy.

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

YOKOHAMA, JAPAN, *August* 15, 1872.

[Enclosure 3.—Translation.]

Mr. De Castes to Mr. Garcia.

No. 47.] LEGATION OF PORTUGAL IN JAPAN.

MOST ILLUSTRIOUS AND EXCELLENT SIR: His excellency the governor having to absent himself from this colony by virtue of his office of minister of plenipotentiary to the court of Siam, directs me to answer the dispatch which your excellency addressed him dated the 27th of last month, announcing the arrival of your excellency in Japan and offering him your service in the capacity of minister plenipotentiary of the republic of Peru to that court.

The expression of friendship with which your excellency addresses him was very pleasing to his excellency the governor, and on his part he hopes to return it by giving all the aid to your excellency to accomplish the mission with which you are charged.

The close relations of friendship which bind our countries impose on his excellency this duty.

Concerning the principal object of the dispatch of your excellency with regard to the question of the bark Maria Luz, the governor of this province had decided before the arrival of your excellency to furnish you with all the documents which illustrate this affair, and it concerns not only the dignity of the country which he has the honor to represent, but also the good name and reputation of the authorities of this colony.

In the separate copy which I have the honor to forward, your excellency will see the way in which the emigration is made from this port. This document is signed by the authority which especially watches and superintends the affairs of the emigration, and is beyond all suspicion, and the veracity cannot be permitted to compare with the witnesses of the Coolie emigrants who testified at the tribunal of Kanagawa. If this question did not involve the national dignity, and that of the officials of this colony,

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which all the citizens should look to, his excellency the governor would not have cared to answer the accusations so devoid of truth as those uttered at the said tribunal. For your excellency to estimate the credence which the testimony of the emigrants of the Maria Luz deserves, the circumstances are sufficient of their giving false names, and the affirmation that they signed the contracts on board, when by the regulations, which I have the honor to forward to your excellency, such contracts are signed at the superintendency, and often even after embarkation, some of the coolies have been disembarked, not wishing to proceed on the voyage.

By the bulletin herewith, your excellency will see that the month in which the Maria Luz was dispatched 702 coolies were distributed to the country of their nativity. Equally by this same document is seen that some of the coolies of the Maria Luz, said to have been deceived, returned to Macao to emigrate, and of these dishonest men a good many are now on the way to Peru. In the month of May, when the Maria Luz left, 3,520 coolies were embarked in several ships, 790 were distributed, 58 taken by their parents, 22 preferred to remain in Macao, 21 waited to go to other countries, 11 disembarked after signing their contract—making a total of 902; or out of 100 colonists embarked 28.4 had the destination above mentioned.

Only those who are completely prejudiced by passion against emigration can say that it is not made from this port with the greatest liberty and spontaneousness on the part of the emigrants. The numbers I have marked are most significant, and against undeniable facts no arguments can be possible.

We can with bold front say to civilized nations that the Asiatic emigration, as it is to-day managed in the colony, is more spontaneous and more free than that which takes place from Europe to America. The governor of this colony has devoted a serious study to this branch of administration, and has succeeded by its regulations in accomplishing the desired object which he has in view. My scruple has been carried to excess, and the diatribes of the foreign press against the emigration have been responded to by giving the colonists new guarantees and new advantages, and enacting new measures of greater vigor against abuses.

The documents and regulations which I have the honor to place in the hands of your excellency, are more than sufficient to show the injustice of the tribunal of Kanagawa, and to manifest its false foundation.

I avail of this occasion, sir, to assure your excellency of my highest and distinguished consideration.

God preserve your excellency.

MACAO, *March* 11, 1873.

The Secretary-General, Acting Governor,

HENRIQUE DE CASTES.

His Excellency Señor Don AURELIO GARCIA Y GARCIA,
Minister Plenipotentiary of the Republic of Peru to the Court of Japan.

[Inclosure.]

SECRETARY'S OFFICE OF THE GOVERNMENT OF MACAO AND TIMOR,
Superintendency of the Chinese Emigration of Macao.

MOST EXCELLENT AND ILLUSTRIOUS SIR: In obedience to your excellency's orders I proceeded to enable myself, by the books of this superintendency, to have the honor to inform your excellency with regard to what relates to the Chinese, Mopin, Akun, Apon, Achon, Sampon, Ak-Kay, Akun, No. 176, affidavit Nos. 182 and 187, Sum-hoy, said to have been embarked on board the Peruvian bark Maria Luz, dispatched from this port on the 29th of May last, with two hundred and twenty-five Chinese coolies for Peru, and put into Japan on the 9th of July last.

Neither in the books of this superintendency nor of the deposits I caused to be brought to this department to be duly examined can I find the names mentioned above. But I can assure your excellency that in conformity with the regularities of the emigration from the port of Macao no coolies could have embarked in the Maria Luz that was not minutely examined in the superintendency; consequently it shows the bad faith of these coolies; and no reliance should be placed on their statements, as they either gave false names in this department when they were examined, or are doing so now in the tribunal of Japan where they are being interrogated. The Nos. 176, 182, 187, Afat Sum-hoy, are in the books of this department, and of the deposit designated by the letter L, of which is charged the assistant José Bernardino with the names of Sotung and Chan-sen-hoy, and the 182, that has no name, is in the same books with that of Holay.

The coolies embarked in the said bark were interrogated in this superintendency, proceeding with the formality with all of them as follows:

During the days that they appeared at this superintendency, the contracts were read and explained to them in the three Chinese dialects—Puntis, Aka, and Chenchin; and

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made one zone in the office of the superintendency publicly, and in the dialect spoken by each of them the following questions: If they wanted to emigrate? If they knew where they were going to emigrate? (if not, it is explained to them.) If they knew the conditions of the contracts? (explaining and removing their doubts should there be any.) If they had been deceived or ill treated? telling them that they can, without fear, declare if they had been ill-treated or deceived, and assuring them the protection of the government until their distribution in case they should not wish to emigrate. This is all I have to say on the subject, and I hope having so satisfied the masters of your excellency.

God preserve your excellency.

Superintendency of the Chinese emigration, Macao, August 30, 1872.

HUMMIJELDI AUGUSTO PEREIRA RODRIQUES,
The Superintendent of the Chinese Emigration.

His Excellency Viscount SAN JUANARIO,
Governor of Macao and Timor, &c., &c., &c.

A true copy.

Office of the secretary of the government of Macao, March 10, 1873.

HENRIQUE DE CASTRO,
The Secretary-General.

A true translation:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 4.]

CONVENTION.

YEDO, *October* 28, 1867.

The undersigned having met to consider the memorial of the land-renters at Yokohama to the foreign representatives, dated July 15, 1867, requesting that the Japanese government may be called on to assure the control and management of the municipal affairs of the foreign settlement of Yokohama, have agreed to recommend to the Japanese government the adoption of the following measures, as being essential under present circumstances of order and health within the said foreign settlement:

I. That an office, to be called land and police office, be formed under the Japanese government at Yokohama, and placed in charge of a foreign director, who will be subordinate to the governor of Kanagawa.

II. The said director, acting under the authority of the governor of Kanagawa, shall see to the repair, cleanliness, and efficiency of all the streets and drains in the foreign settlement of Yokohama. He shall be authorized to receive such complaints relative to police or the state of drains and thoroughfares as may properly be addressed by foreigners to the local government direct, and in the name of the governor of Kanagawa will prosecute foreigners before their own authorities for nuisances or any infringement of public order.

III. The said director, acting under the authority of the governor of Kanagawa, will have the charge and direction of all foreigners who may be employed as for police, for the maintenance of security and order within the foreign settlement of Yokohama, or for the repression of disorderly conduct on the part of foreigners within the port of Yokohama.

Whenever a subject or citizen of a treaty power is arrested in the commission of an offense by the said director, or any foreigner or Japanese acting under his direction, or the orders of the governor of Kanagawa, the person so arrested must be conveyed at once to the consul of his nation, who will take steps for the detention of the offender until he can be prosecuted.

IV. The governor of Kanagawa, acting with the advice of said director, and with such advice as he may obtain from foreign consuls, will exercise jurisdiction, both civil and criminal, on the subjects of China and the subjects and citizens of other non-treaty powers residing within the said settlement or within the port of Kanagawa.

V. The land-rents payable by foreigners will be collected by the said director as soon as they become due, for and on account of the governor of Kanagawa, and the said director, acting in the name of the governor of Kanagawa, will be empowered to sue foreigners for default of payment before their own authorities.

VI. The undersigned undertake to instruct their respective consuls to confine within the narrowest limits compatible with public convenience, the number of licenses issued by them to their respective subjects or citizens, as sellers of foreign spirits or liquors, or as keepers of houses of entertainment, within the foreign settlement or within the port of Kanagawa. A copy of every license will be furnished by the consul, as soon as it is issued, to the governor of Kanagawa, and the said director will inform against

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any person who sells liquors or keeps a house of entertainment without the license of his authorities.

VII. The Japanese government will make arrangements for the safe storage at reasonable rates, of gunpowder, or other explosive substances imported into the port of Kanagawa, and the undersigned will take the necessary steps to prevent their respective subjects or citizens from using any other place for the storage of those dangerous substances.

HARRY PARKES.
L. RICHES.
R. B. VAN VALKENBURGH.
VON BRANDT.
D. DE GRÄFF VON POLSBROCK.

A true copy.

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Enclosure 5.—Translation.]

To His Excellency R. B. VAN VALKENBURGH,
Minister Resident of the United States of America:

I have the honor to inform the following to your excellency:

The regulation of police and road within the foreign settlement of Yokohama, being negotiated between your excellency and English, Netherland, and Peruvian ministers, is sent to me by the English minister.

I have also agreed with it, and taken on the moment Mr. Martin Dohenen, in English consulate, in service to charge with the police of settlement.

Inclosing the said regulations, I have to bring it to your excellency's notice.

With respect and esteem,

OGUSAWANA EKE NO KAMI.

The 22d day of the 11th month of Kei, 3 years.

A true copy:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 6.]

No. 64.] LEGATION OF THE UNITED STATES IN JAPAN,
Yedo, November 16, 1867.

SIR: I have the honor to transmit herewith (No. 1) copy of an arrangement providing for municipal government at Yokohama, (Kanagawa,) which is unanimously adopted and agreed to by the foreign representatives and the Japanese government.

You will perceive that the principle of exterritoriality has been carefully preserved, and that the citizens of the United States are in all cases of offense answerable only to the jurisdiction of our own authorities.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. W. H. SEWARD,
Secretary of State, Washington, D. C.

A true copy:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 7.]

GOVERNMENT OFFICE, KANAGAWA, *June* 3, 1872.

GENTLEMEN: Concerning the complaint made by Captain Spinks of the Tunesian steamer Zadkia against the crew on board of said steamer, which I have to investigate at this kencho at 10 o'clock a. m., on Wednesday next, the 5th day of June, I request you kindly to let me know whether you will attend said case in accordance with the convention concluded on the 28th October, 1867.

I have the honor to be, sir, your obedient servant,

MUTZU MENCENUTZU,
Kanagawa Ken no Kami.

The CONSULS *of the foreign powers.*

A true copy:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

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[Inclosure 8.]

GOVERNMENT OFFICE, KANAGAWA, *August* 6, 1872.

SIR: You are hereby requested to appear in this government office, together with the Chinese that has been sent back on board by the police, to-morrow, Wednesday, the 7th August, at 10 o'clock a. m.

KANAGAWA, *Kencho.*

Captain RICARDO HERIERA,
Peruvian bark Maria Luz.

A true copy:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure No. 9.]

DANISH CONSULATE-GENERAL,
YOKOHAMA, *August* 6, 1872.

SIR: With reference to the inclosed copy of the minutes of the consular meeting held to-day for the purpose of considering the finding and recommendation laid by your good selves before the consular board in the case of the Peruvian ship Maria Luz, I beg to forward to you a copy of the recommendation and advice given by Mr. Zappe, His Danish Majesty's acting consul-general, to which Mr. Loaviro, consul for Portugal, Mr. Bruni, acting consul for Italy, and myself give our full approval.

I remain, sir, your obedient servant,

E. DE BAVIER,
His Danish Majesty's Consul-General.

Consular meeting held at the German club, August 29, 1872. Present, E. de Bavier, esq., His Danish Majesty's consul; E. Lourend, esq.; F. W. Hill, consul; A. L. Bauduin, esq., His Netherlands Majesty's acting consul; F. Bruni, esq., Italian consul; E. Zappe, esq., His Imperial German Majesty's acting consul-general; C. O. Shepard, esq., United States consul; Russell Robertson, esq., Her Britannic Majesty's consul.

Mr. Zappe reads his written objection to the judgment delivered in the case of the Maria Luz by the local Japanese government.

These objections are supported by Mr. Bavier, Mr. Lourin, and Mr. Bruni.

Mr. Robertson agrees with the finding and recommendation of the Japanese authorities.

Mr. Shepard, considering that the letter of the convention of October, 1872, having been complied with by the governor, and further considering that the matter is one in which only the Japanese, Portuguese, and Peruvian governments are concerned, declines to express any opinion or give advice.

Mr. Bauduin is of opinion that the governor of Kanagawa, after the convention of October, 1867, ought to have called for the advice of the consular body about the steps to be taken in the case of the Maria Luz. The governor did not do so, and made himself a court of inquiry, and afterward submits his decision to the consideration of the consuls. That, therefore, Mr. Bauduin does not agree with the steps taken by the governor in the matter from the very beginning, and wishes now to leave entirely to him the responsibility of such decision as he thinks proper.

OYE TAKEE, esq., Kanagawa Ken Gon no Kami. I cannot approve of the finding and recommendations laid before me by the Kanagawa kencho, because—

1. The governor recommends to punish an offense about which no trial has taken place. The inquiry I have partly intended, I have been several times assured by the governor was to be only a preliminary inquiry, and a judgment can only be given after a formal trial has taken place.

2. Even if I admit that the proceedings just now referred to have been a regular and lawful inquiry, even then I cannot give my consent to the finding and recommendation in question, because all the evidence which has been elicited is one-sided, the court having heard the evidence of the complaining parties only, and since the contract which each coolie has entered into is an agreement between two different parties in the presence of witnesses, each contract bearing the stamp of the government office in Macao and the signatures of two Portuguese government officers, these parties must be heard before a decision can be given about the validity of the contract.

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3. Too little weight has been bestowed on the evidence of the captain, who flatly contradicts the statement of each coolie, notwithstanding the fact that each contract is in his favor—that is to say, corroborates his statements. The construction of the court has not been in accordance with the convention of October, 1867, which provides that the government shall exercise jurisdiction over non-treaty subjects with the municipal director, and with the advice of the foreign consuls if obtainable. In this case the governor has not once, up to the present, deemed it necessary to ask my advice or to ask the advice of my colleagues, although he has taken steps in the matter of the Peruvian ship Maria Luz which carry with them grave responsibilities. On the contrary, the court has in reality only been constituted by the governor and a Mr. Hill, known to me as a practitioner in Yokohama, not to mention foreign functionaries not connected with the board of consuls, who obtained permission to put questions to the coolies, although, if the stipulations of the above convention had been observed, Mr. Hill would scarcely have had a right to occupy the conspicuous place on the bench which he did occupy, as if he had been called there by the joint consent of the consuls and the governor. But, even if I waive my former objections, I come to the question which I consider the most important to be decided on, namely, the question of competence to exercise jurisdiction in this matter; and, after due deliberation, I must deny the competency of Japanese authorities. The right of jurisdiction, civil or criminal, over all persons and property within the territorial limits, which is incident to a state relating to its own subjects and their property, extends also, as a general rule, to foreigners commorant in the land. This means, in other words, that territorial jurisdiction may be exercised over foreigners commorant within the territories of a state for offenses or crimes committed within the limits of a state. The right of the Japanese authorities to exercise jurisdiction over the Maria Luz and the captain is doubly dubious, because—

1st. The captain, and the property in his charge, the ship, are not commorant within the limits of the Japanese territory, but have only been forced into these limits by powers over which they had no control—by winds and weather—and would have left these limits if force had not prevented their leaving.

2d. The Japanese authorities are not competent to punish offenses or crimes committed on the high seas under the Peruvian flag, which is equal to being on Peruvian territory.

3d. The Japanese authorities are not competent to give a decision on the validity or non-validity of a contract made between foreigners in places outside of Japan.

My advice, therefore, is, to return the coolies to the ship, and put the captain on formal trial for offenses committed in this harbor, if such is deemed necessary.

ED. ZAPPE.

True copies:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 10.]

KANAGAWA, *August* 30, 1872.

SIR: Your opinion upon the finding and recommendation in the case of the Maria Luz has been received by me, and has had my very careful attention.

The finding and recommendation had already been by me *submitted* to the foreign department of the empire and *approved;* and your communication dated yesterday has also (last evening) been *transmitted* by me to the foreign office for its consideration.

I am now *directed* by that *department to deliver a judgment in accordance with* the finding and recommendation.

As to the objection made in yours, I shall take an early opportunity to give you more fully in writing my reasons for the finding, and some explanation of wherein I think you have taken an erroneous view of the matter.

I have the honor, &c.,

OYE TAKEE,
Kanagawa Ken Gen. no Kaim.

ED. ZAPPE, Esq.

A true copy:

FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 11.]

No. 4.] SUPERINTENDENCY OF CHINESE EMIGRATION FROM MACAO.

MOST ILLUSTRIOUS SIR: I have the honor to forward herewith, to be presented to his excellency the governor, a table showing the movement of the colonists who em-

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grated through this superintendency during the year 1872, *i. e.*, from January 2 to December 31.

As it is seen, there was last year an increase for Horuma of 908 colonists, and for Peru an increase of 3,429, being a total increase of 5,022.

The difference in the number of ships that received emigrants was six more than last year, five of them being steamers.

The increase in the number of colonists who left this port in that year is certainly due to the suitable measures taken by his excellency the governor at the commencement of his government, and which were of urgent necessity.

This office has made the greatest efforts in its power in order that his excellency's orders should be strictly carried out and the desired object obtained.

I am happy to repeat that no disaster is to be deplored last year, and that if all the ships have not arrived at their ports of destination as was hoped for, it has only been on account of the changes in the seasons which have lately done so much damage. Nevertheless, we know already of some having arrived in excellent condition, as may be seen by the reports of the respective consuls. The only circumstance which clouds this statement is the fact which occurred with the Peruvian bark Maria Luz, which, through stress of weather, arrived in Japan on the 9th of July, a case to which I referred in my note No. 350, of August 30, showing the little credit that ought to be given to the declarations which it was said the colonists were making before the Japanese court, as the names that they gave out there as their own did not exist in the books of any of our offices, which makes us suppose that even in this they swore falsely.

I beg also to report, in this place, that many of the emigrants who in that bark put into Japan have again emigrated through this superintendency in several ships, and they continue from time to time appearing in small numbers in order to re-embark again with the greatest satisfaction. I am also happy to be able to say that I am indebted to the good services, the honesty, and the prompt aid of the officers of this superintendency for being able to present now the inclosed table, which shows the favorable results obtained this year.

I hope that the labors of this office will be approved by his excellency the governor.

If his excellency thinks proper, I beg your honor to please have the table published, as is customary, in the *Boletine* of the province which your honor so ably conducts.

God preserve your honor.

Superintendency of Chinese emigration, Macao, January 4, 1873.

H. A. PERIRA RODRIGUES,
Superintendent of Chinese Emigration.

To the Illustrious Señor HENRIQUE DE CASTRO,
Secretary General, &c.

A true translation :

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

[Inclosure 12.]

Convention of peace between Her Majesty the Queen of England and the Emperor of China signed at Peking 24th of October, 1860.

ARTICLE V.

As soon as the ratifications of the treaty of 1858 shall have been exchanged, His Imperial Majesty the Emperor of China will by decree command the high authorities of every province to proclaim throughout their jurisdictions that Chinese choosing to take service in British colonies or other ports beyond sea are at perfect liberty to enter into engagements with British subjects for that purpose, and to ship themselves and their families on board any British vessels at any of the open ports of China; also, that the high authorities aforesaid shall, in concert with Her Britannic Majesty's representative in China, frame such regulations for the protection of Chinese emigrating as above as the circumstances of the different open ports may demand.

Convention of peace between the Emperors of France and China, signed at Peking 25th October, 1860.

ARTICLE IX.

On the exchange of the ratifications of the treaty of 1858, His Imperial Majesty the Emperor of China will by decree notify to the high authorities of every province that Chinese choosing to take service in the French colonies or other ports beyond the sea are

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at perfect liberty to enter into engagements with French subjects for that purpose, and to ship themselves and their families on board any vessel at any of the open ports of China; also, that high authorities aforesaid shall, in concert with the representative in China of His Imperial Majesty the Emperor of France, frame such regulations for the protection of Chinese emigrating as above as the circumstances of the different ports may demand.

[Translation.]

Treaty of friendship, commerce, and navigation between Spain and China, signed at Tien-tsin 10th of October, 1864.

ARTICLE X.

The imperial authorities shall permit that Chinese subjects, when they wish to go as laborers to the Spanish colonial possessions, may make contracts to that effect with the Spanish subjects, and that they may embark alone or with their families in any of the open ports of China; and the local authorities shall establish the necessary regulations in each port, in concert with the representatives of Her Catholic Majesty, for the protection of the said coolies. Deserters and those who may have been taken against their will shall not be admitted. If such a case should arise the local authorities may communicate with the Spanish consul, in order to have them returned.

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

True copies and translation.

No. 260.

Mr. De Long to Mr. Fish.

No. 423.] UNITED STATES LEGATION, JAPAN,
June 6, 1873. (Received July 5.)

SIR: Having learned a few days since that the treaty heretofore negotiated between Japan and China had been ratified, I made inquiries at the foreign office to know if this was true. I was told that it was. I then requested to be supplied with a copy of the same. This was promised, but at the same time I was told that it was reported that some slight changes had been made in the draft of the treaty, of which particular notice as yet had not reached this government.

Accordingly I was furnished with a copy of the original treaty, a translation of which I have just obtained from Mr. Rice, and herewith forward. (Inclosure No. 1.)

Of course it will not be safe to act upon this officially, but as I have no doubt that it is nearly as the ratified treaty will prove to be, I send it early for information, begging leave to observe that, should the treaty that is ratified prove similar, I think several questions between ourselves and the Japanese are thereby settled; for instance, the right to travel freely throughout the empire. The right to circulate our literature freely, &c., must, it seems to me, flow to us as of right under the most favored nation clause. To get your opinion and instructions speedily upon these points is much desired.

I am, &c.,

C. E. DE LONG.

[Translation.]

Treaty of peace and amity.

The country of Japan and that of China having been for years past upon intimate terms of friendship, it is desired to strengthen such intimacy, and closer cement such friendship. Wherefore, Jienui Yii Date, for Japan, chief minister of finance, envoy extraordinary and minister plenipotentiary, and Li Yihaku, for China, commissioner

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for commerce, guardian of the heir apparent, chancellor of states, president of the board of war, and viceroy of Chili, each, in accordance with instructions from their respective sovereigns, to confer together and deliberate upon articles of agreement to be observed perpetually without infringement, by both states, have agreed upon the following articles:

ARTICLE I.

Japan and China shall strengthen their friendship for each other, and render it enduring. The attitude of each towards the other shall be that of mutual respect, abstaining from all thoughts of invasion, and each shall maintain lasting peace.

ARTICLE II.

Both countries, being thus on friendly terms, must mutually assist in time of trouble. In event of either experiencing injustice or wrong from another state, the other, upon learning of such, shall render its good offices.

ARTICLE III.

The administration of the two countries being different, neither shall seek to impose its own views upon the other, but shall afford mutual protection to each other's laws. The merchants of both countries shall be carefully instructed thereon, and no violation of the law by residents in either country shall be allowed.

ARTICLE IV.

The embassadors of either country, with their families and suite, may reside in the capital permanently, or while traveling, and may travel at will, in any direction throughout the interior. They will on all such occasions defray their own expenses. They may rent land or houses for official occupation, and shall have facilities for the carriage of their effects, sending dispatches, &c.

ARTICLE V.

Although there are grades of rank in either country, the method of service is different in each, therefore those to whom are assigned similar duties may correspond and meet upon terms of equality; but those in subordinate positions, when brought into contact with those in higher offices, shall give precedence and observe due ceremonies. In the transaction of official business, the officer shall make his communication to one of an equal rank with himself, and have it passed by him to his superior, avoiding direct communication with one in a higher position. At visits of ceremony official cards shall be used. Officials sent from either country to the other shall, upon arrival, present for inspection a paper, with seal attached, to guard against imposition.

ARTICLE VI.

In correspondence between the two countries China shall use the Chinese character and idiom, and Japan the Japanese character, with or without the Chinese idiom, or even the Chinese character alone if found to be more convenient.

ARTICLE VII.

When entering upon friendly relations, each country shall point out to the other the ports for trade in each, to which the subjects of either may go for trade; and regulations for trade shall be made, and the subjects of both countries compelled to conform thereto.

ARTICLE VIII.

At the treaty ports of each country consuls may be stationed, who shall control their respective countrymen. All questions of litigation, administration of property, and of that character, shall be determined by the said consul according to the laws of his country. In questions where subjects of both countries are concerned, the complainant shall address a petition to the consul of the accused, who shall first endeavor to bring about an amicable settlement of the case, who, failing in this, shall acquaint the local authorities, and with them decide the question.

In cases of theft, or desertion from service, the local authorities of either country shall make arrests, but may not be held responsible for losses of individuals.

ARTICLE IX.

If either state have no consul at a treaty port the local authorities shall guard the interests of its subjects there, and in event of any transgression of the law by such, said authorities may investigate the same, arrest the culprit, and try the case, submitting the evidence and forwarding the offender to the nearest consul of his nation for adjudication.

ARTICLE X.

The officials or merchants of either country, while residing at treaty ports, may employ the people of that locality as servants or clerks, and will constantly observe that

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such servants do not misconduct themselves, at the same time avoiding causing trouble for the government by repeating remarks made by them. When any servant commits an offense he shall be given up, and no hinderance offered the local authorities in the performance of their duty.

ARTICLE XI.

The subjects of either state residing at a treaty port shall maintain friendly intercourse. They are not to carry swords nor other weapons. Offenders in this respect will be punished and their arms confiscated.

Subjects of either state residing in the territory of the other must each attend to his chosen business; and whether his stay be short or long, will be subject to the consul's control. He shall not change his costume, nor cause confusion by accepting any office that shall create a doubt of his identity.

ARTICLE XII.

Subjects of either state flying from justice to the territory of the other, or concealing himself on board any ship, or within the office or residence of any subject of the other, shall, upon a requisition from his own consul, made after learning his whereabouts, be sought for by the local authorities without hesitation or assistance at further concealment, arrested, yet always be treated with kindness and consideration while being conducted to his own authorities.

ARTICLE XIII.

Subjects of either country residing at the treaty ports of the other, who are guilty of crime, or who go into the interior and commit incendiarism, murder, robbery, or plunder, shall be arrested by the local officials, and a report sent to the nearest consul. If such offender forcibly resist the officer making the arrest, he may be killed, slain upon the spot; but the consul must be informed of the circumstances and be given opportunity for investigation.

When such cases occur in the interior, beyond the consul's cognizance, a complete statement shall still be sent to him.

Such offenders arrested at a treaty port will be tried by the local authorities and the consul, acting conjointly.

If such offender be arrested in the interior the local official may try him, and inform the consul of the circumstances.

If subjects of either country assemble riotously in the territory of the other, to the number of ten or upwards, and persuade or invite the natives to co-operate with them to the public injury, the local authorities shall forthwith apprehend them. In such a case the consul shall be informed and shall co-operate. If it occur in the interior the local authorities shall, after a representation to the nearest consul, adjudicate on the spot.

ARTICLE XIV.

Vessels of war of either state, when resorting to treaty ports of the other for the protection of their countrymen, shall not enter unopened harbors, inland rivers, or lakes.

Infringement of this prohibition will be punished.

But cases of distress from severity of the weather are exempt from this clause.

ARTICLE XV.

If either state be at war with another power, it may notify the fact at each treaty port, and proclaim any such port closed to trade. Care must be taken that vessels coming or going sustain no injury from carelessness. Japanese residing in China or Chinese residing in Japan, at such a time, shall not take side with either belligerent.

ARTICLE XVI.

Each state will prohibit it consuls from engaging in trade. Neither may they be allowed to act as consuls for other treaty powers.

If there is any proof of any one consul having caused general disatisfaction, the same shall be represented to the ambassador resident, and upon due evidence of the justice of such complaint he shall be recalled, so that no individual may disturb the harmony between the two countries.

ARTICLE XVII.

Each country having its maritime flag, if any vessel belonging to either employ the flag of the other, and under that flag infringe their rules, such ship and cargo shall be confiscated, and if such flag shall have been given by an official he shall be degraded.

The literature of either country may circulate freely in the other, and may be bought or sold at will.

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ARTICLE XVIII.

These articles are agreed to in order to prevent misunderstanding, and preserve friendly relations.

In token whereof the plenipotentiaries of both countries affix their respective signatures.

When the approval of the sovereigns of each country is obtained, and ratifications exchanged, it shall be printed and promulgated throughout each country, in order that the officials may become acquainted with it, and uphold its provisions.

On the 29th day of the 7th month in the 4th year Meiji.

[L. S.] (Signature.)
Of Japan.

On the 29th day of the 7th month in the 10th year of Dochi.

[L. S.] (Signature.)
Of China.

Translated by interpreter United States legation, Japan, from the Japanese copy.

No. 261.

Mr. De Long to Mr. Fish.

No. 427.] UNITED STATES LEGATION, JAPAN,
June 17, 1873. (Received July 22.)

SIR: I have the honor to advise you that on yesterday I received a note from the Peruvian envoy here, (inclosure No. 1,) accompanied by a copy of a note addressed by him to F. F. Low, esq., at Peking, (inclosure No. 2,) requesting me to forward the original (which was also inclosed in a sealed envelope) to Mr. Low, with a personal request on my part to him to extend the assistance required. Also inclosing a sealed note addressed to a Chinese official at Tien-Tsin requesting me to forward the same for delivery to the United States consul at that port.

I at once addressed Mr. Low a note (inclosure No. 3) forwarding the sealed dispatch therewith, and also addressed our consul at Tientsin, Mr. Eli T. Sheppard, a note (inclosure No. 4) forwarding the other letter for delivery. Also on the same day I replied to the Peruvian envoy, informing him of my proceedings, (inclosure No. 5.)

I am, &c.,

C. E. DE LONG.

Mr. Garcia to Mr. De Long.

[Translation.]

No. 5.] LEGATION DEL PERU,
Yedo, June 15, 1873.

SIR: In accordance with the conversation I had lately with your excellency, I have the honor to inclose herewith a dispatch which I addressed on this date to his excellency Frederick F. Low, minister of the United States in China, relating to my approaching journey to Peking. Please also find inclosed copy of that dispatch.

I beg your excellency to forward my communication to Mr. Low, with a note from yourself in support of the request which it contains. It will be one more service on your part which my government will highly appreciate, and for which I offer your excellency my acknowledgments.

As I request Mr. Low to send his answer to the consulate of the United States at Shanghai, I hope that he may send your excellency a copy of it, in order that I may lose no time in learning its contents in case I should be still in Japan when it arrives.

At the same time, and in connection with the above, permit me to further trouble you, begging you to request the consul of the United States at Tien-Tsin to be so good as to have the inclosed letter from his excellency M. de Bellounet, French minister at Lima, safely delivered to his excellency Echong Hiou, member of the foreign office and superintendent of the northern ports at Tien-Tsin.

I am happy to assure your excellency once more of my highest regard and most distinguished consideration.

AURELIO GARCIA Y GARCIA.

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Mr. Garcia to Mr. Low.

[Translation.]

LEGATION DEL PERU, YEDO,
June 15, 1873.

SIR: I have the honor to address your excellency the present communication, in reference to the mission which my government has intrusted to me in the empire of China, and in anticipation of my approaching journey to that capital.

Your excellency will remember that in the year 1870 the Peruvian government being desirous of entering into treaty relations with China and Japan, and not finding it convenient to immediately send out a legation, invoked the friendly relations of the United States, and begged the American Government to instruct their minister at Peking and Yedo to represent Peru until such a time as the republic could dispatch a mission. On the 10th of May of the same year, General Hovey transmitted to the minister of foreign affairs at Lima the answer of the honorable Secretary of State acceding to our request, and advising him that your excellency and Mr. De Long had been so instructed.

Two years afterward, in August, 1872, his excellency Señor Don Manuel Pardo, having inaugurated his liberal administration, one of his first cares was to attend to the very important interests of Peru in China, with which country our republic had had constant intercourse for upwards of thirty years. President Pardo in consequence appointed the undersigned his envoy extraordinary and minister plenipotentiary in China, with the object of concluding treaties of amity, commerce, and navigation, and regulating on bases mutually convenient, protective of persons, and similar to those adopted by other nations, the emigration of Asiatics to Peru. When this legation was to be appointed the Peruvian government advised the Government of the United States of it and of the purpose of the mission, and also requesting that the American representatives in Peking and Yedo might extend their good offices to it upon its arrival in announcing it, and lending such other friendly assistance as the occasion might require. To this request the American Government assented most gladly, and the Hon. Mr. Fish advised Colonel Freyre that instructions had been given to that effect.

Your excellency may already have heard of my arrival in Japan, and of the very flattering reception with which the Peruvian mission was honored by His Majesty the Tenno.

I am happy to be able to state to your excellency that the opportune and friendly action of his excellency C. E. De Long, minister of the United States at this court, has contributed in a most efficient manner to bring about that result and to facilitate my work with this government. In addressing your excellency this dispatch, I am convinced that the representative of the American Union at Peking is animated by the same friendly sentiments toward Peru which have on all occasions been shown to her by the Great Republic; and althongh I cannot, as yet, fix the day of my departure for China, as it is not remote from this date, I beg to express the hope that your excellency will please announce my approaching arrival to the Chinese government, and will endeavor to incline that government favorably to my legation, conveying to their mind the very friendly spirit in which it comes, the importance of its object, and bringing to their knowledge the fact that the government of Peru has just enacted a new code of regulations for the protection of Chinese emigrants, making it impossible that they should be subject to any abuses which my government has always condemned and endeavored to punish, and at the same time assuring them all the rights which the constitution and liberal laws of the country guarantee to all foreigners in their persons and property.

For these good offices allow me to give your excellency my government's and my own anticipated thanks, which it is my earnest hope to be able soon to express personally to your excellency.

Begging your excellency to please send your answer to the American consulate at Shanghai, with instructions that it be kept for me there, I have the honor to assure your excellency of my highest regard and most distinguished consideration.

AURELIO GARCIA Y GARCIA.

Mr. De Long to Mr. Low.

No. 140.] UNITED STATES LEGATION,
Yokohama, Japan, June 16, 1873.

SIR: To-day I received from the Peruvian minister a letter for you, (inclosure No. 1,) accompanied by a note addressed to myself, requesting me to forward the same to you and bespeak your assistance as requested by him.

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It affords me much pleasure to be able to assure you that during his stay in Japan his excellency has established most cordial relations with all of the diplomatic corps present here, and also has received at the hands of the Japanese officials many evidences of kind personal and official consideration, notwithstanding the business he had to lay before them was not entirely free from features calculated to prove annoying.

Entertaining, as I do, for his excellency and the gentlemen comprising his suite the liveliest feelings of personal regard, I earnestly solicit you to extend your official assistance to obtain for them a kind reception by the Chinese government.

I beg you to address his excellency your reply in duplicate, one copy in care United States consul at Shanghai and the other to himself at this port, as he desires it at the earliest possible moment, and may probably not be able to leave here prior to the receipt of your reply.

I have, &c.,

C. E. DE LONG.

Mr. De Long to Mr. Sheppard.

No. 141.] UNITED STATES LEGATION,
Yokohama, Japan, June 16, 1873.

SIR: At the request of his excellency Aurelio Garcia y Garcia, envoy extraordinary and minister plenipotentiary of Peru in this empire, I inclose a letter to your care for safe delivery as addressed.

I will thank you to reply, advising me of your having delivered the same.

I am, &c.,

C. E. DE LONG.

Mr. De Long to Mr. Garcia.

No. 142.] UNITED STATES LEGATION,
Yokohama, Japan, June 16, 1873.

SIR: I have the honor to acknowledge your kind note of this date, with its inclosures. I at once addressed Mr. Low a note, (inclosure No. 1,) forwarding therewith your note to him, and also addressed a note to the American consul at Tien-Tsin forwarding your other letter to him for safe delivery, (inclosure No. 2.)

I beg to thank you for the kind and flattering expressions contained in your note to Mr. Low, and also beg leave to assure you of my great willingness to continue any good offices you may see proper to request of me. I embrace this opportunity to renew my assurances of profound consideration.

I am, &c.,

C. E. DE LONG.

No. 262.

Mr. De Long to Mr. Fish.

No. 429.] LEGATION OF THE UNITED STATES,
Yokohama, Japan, June 19, 1873. (Received July 22.)

SIR: A few days since the Japanese minister handed to the Peruvian envoy his reply in the Maria Luz case. At my request he very courteously allowed Mr. Rice to make a copy of the original on file in the foreign office. (Inclosure No. 1.)

The Japanese minister, a day or two before sending in this answer, conversed with me at great length relative to it. I was a little at a loss when he finished to know exactly what he meant for me to understand, but, on the whole, I gathered the idea that this reply had been considered by the grand council in two lengthy sessions, the Emperor being present in person. That while this had been adopted they enter-

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tained grave doubts relative to its correctness, and would welcome an offer to arbitrate should it be made by the Peruvian minister; and it was desired that in some way, without committing him, I would make this known to the Peruvian government, also letting him know that he, the Japanese minister, was prepared to discuss the case further, verbally or in writing. There seemed to exist an apprehension that the Peruvian government would treat their reply as an end of the discussion and resort to hostilities.

As requested I called on Señor Garcia and told him that I had been advised by the Japanese minister that his reply would be sent in within two days; that it would be at variance in its argument and conclusion from the case as stated by him, but that I felt well satisfied that any further discussion he might wish to hold would be welcomed by the Japanese, who in their anxiety to keep the peace and do justice, I felt convinced, would consent to an arbitration if proposed by him.

He thanked me for my information and deferred further comments until the answer should be received, remarking, however, that it was not for him to propose an arbitration when such a course had been indicated by the Japanese minister in opening the case. I replied that this was denied by the present minister, who claimed that what was said on that subject was merely a passing remark to the effect that in presenting his side of the case if any difficulties presented themselves that he should confer freely with the representatives from foreign states at the Japanese court. This was disputed by Señor Garcia, who assigned very good reasons against its verity. I urged him to press the discussion further, and not treat the reply as conclusive; and I also intimated an opinion that he might, with great propriety, propose the arbitration. He dissented strongly from this view, stating that if he should propose this and it should be rejected, his position would be very unenviable. I replied that I had excellent reasons for stating that it would be accepted. He replied that he would, after receiving the answer, let me know his views more at length. A few days afterward I met him and we read over the answer together. He asked my opinion as to whether he should reply in writing, or ask for a conference. I replied that if in his position I should prepare a reply in writing briefly and pointedly stating the points in controversy, and then request an interview at which to discuss those points. He seemed to agree with this view, and then asked me, if I should be requested so to do, if I would, as a mutual friend lending my good offices to each, suggest to both a reference of this matter to arbitration, provided in the end no agreement could be arrived at between the two principals. I replied that I would do so with pleasure. Señor Garcia, with some bitterness of tone, then called my attention to the paragraph in the reply wherein it was stated that it, the Japanese government, had been counseled to take the action that it did with regard to the Maria Luz, by the British and American chargé d'affaires, and he asked me if this was indeed true. I had to admit that it was, to the extent of Mr. Shepard's having written a note seconding Mr. Watson's demand for an investigation into the affairs on board of that vessel.

Señor Garcia then remarked that from the newspapers he had learned that you had approved of Mr. Shepard's action in this affair. I replied that this was true, but that I believed it was also true that when you did so you had no knowledge that Mr. Shepard had taken the action now referred to. He then intimated an opinion to the effect that I should have let him know of this. I replied that it wasi nformation he had not called for, that I did not consider it material for him to

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have, and thereupon useless to mention. He replied that he felt it to be his duty to address Mr. Freyre a note on this subject, as it now appeared that while this captain was appealing to Mr. Shepard for aid, he, Shepard, was not merely refusing assistance, as his reply to the captain stated, but at the time, and secretly, he was prompting the persecution. I replied that I regretted that he should feel that he had any cause of complaint; that I did not believe that this note of Mr. Shepard's had in any manner influenced the action of this Government, and I had kept silent about it mainly because my relations with Mr. Shepard not being very kind, and nothing having been said calling this out, I felt that to make it known voluntarily would bear the appearance that I was doing so with the purpose of involving Mr. Shepard in trouble.

The minister replied that he well understood my feelings, and on my account would with pleasure pass the matter by, but he felt it to be his duty to make known to Mr. Freyre this heretofore unknown action of Mr. Shepard. This terminated our interview, and I have not since heard anything of the case.

I am, &c.,

C. E. DE LONG.

Mr. Oyeno Kagenori to Mr. Garcia.

[Inclosure 1.—Translation.]

FOREIGN OFFICE, TOKÉE,
The 13th of 6th month of 6th year of Meiji.

SIR: I have the honor to acknowledge the receipt of the letter which you addressed to me under date of March 31, 1873, in relation to the case of the bark Maria Luz.

That vessel entered the port of Yokohama in order to repair damages suffered at sea. If engaged in a legitimate commerce, hospitality and protection were due to the officers, the crew, and the passengers on board.

I do not think it necessary at this time to inquire whether the employment of a vessel in what is known as the coolie trade may justly debar her from the privileges granted to ships overtaken by marine disaster upon a voyage of the most inoffensive and honorable character.

The privilege which the usage of nations has allowed to ships taking refuge in their ports, not from choice but from necessity, rests in part upon a motive of humanity, in part upon the principle of natural justice, which exempt from punishment those whose offense was committed involuntarily, and without evil intention.

Humanity dictates that such succor shall be given as will enable the vessel to resume her voyage; justice requires that the owners, the officers and crew shall not be subjected to penalties prescribed by a local law they had no design to violate; especially if the penalty, by condemning the vessel or imprisoning the crew, would bring the voyage to an end.

These principles do not apply to free passengers not bound to nautical service. The presence of such persons on board is not essential to the navigation of the ship, but imposes trouble, expense, and often danger, as was illustrated in the short voyage of the Maria Luz.

If the case of the Creole, to which your excellency refers, seems to extend the doctrine of immunity from local jurisdiction to passengers, it is only because the living cargo of that ship were treated as property only.

They were slaves, mere chattels, by the law of the states in which they were born, and simply in virtue of their birth. They were in the evil days when the Creole case arose, and was decided just as much freight as pigs or oxen would have been.

Nobody thought of calling them passengers, or even emigrants.

Having thus stated the only reasons for any discrimination between vessels entering a foreign port in distress and those which voluntarily come within an alien jurisdiction, I invite your excellency's attention to the opinions of most ancient writers on international law as to the extent of that jurisdiction.

Sir Francis Travers, D. C. L., recently Her Britannic Majesty's advocate general, in his work "On the rights and duties of nations in time of peace," says: "So complete

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(page 230) is the authority of the *lex loci* over all persons and property on board of private vessels that if a vessel under the British mercantile flag were to enter the port of Charleston, having free negro sailors among her crew, the mercantile flag will not protect those sailors from the operation of the territorial law of South Carolina, which forbids a free negro to be at large within the limits of that State.

"It has thus frequently happened that negroes, or persons of color, though free subjects of Her Britannic Majesty, and duly entered on the muster-roll of a British merchant-vessel, have, on such vessel entering the port of Charleston, been taken out of her by the officers of the port under the authority of the local law, and have been detained in custody until the vessel has cleared outward, when they have been again placed on board the ship, with permission to leave the country."

It is not necessary for me to justify this practice, but I may remark that so strong and proud a nation as Great Britain submitted to it so long as slavery prevailed in the United States, not only in Charleston, but in Mobile, New Orleans, and other ports.

The American writer, Halleck, (page 172,) states the rule to be that "the local authorities have the right to enter on board a foreign merchant-vessel in port for the purpose of inquiry universally, but for the purpose of inquiry only in matters within their ascertained jurisdiction."

He proceeds to state that facts happening on board "which do not concern the tranquillity of the port, or persons foreign to the crew, or acts committed on board while such vessel was on the high seas, are not amenable to the territorial justice."

Wheaton says that the legislation of France waives, in favor of such vessels, the exercise of the local jurisdiction to a greater extent than appears to be imperatively required by the general principles of international law. He then shows that the liberal waive of jurisdiction does not extend to offenses committed on board of it, against persons not belonging to the ship, citing in translation a decision of the council of state in 1806.

The original text of this decision shows plainly the distinction between the crew and others on board not belonging to the crew. I extract as follows:

"Les gens de son equipage sont egalement justiciable des tribunaux du pays pour les debits qu'ils y commettraient méme à bord, euvers des personnes étrangérs à l'equipage. Mais que si jusque lá la jurisdiction territoriale est hors de donte il n'eu est pas ainsi á l'egard des debits qui se commettait à bord du vaisseau neutre de la part d'un homme de l'equipage neutre euvers un autre homme du méme equipage."

Calvo, the most eminent of South American writers on international law, declares that the absolute exemption from local jurisdiction belongs certainly and in full right only to ships of war, as a general rule, in the absence of stipulations to the contrary; exceptionally sanctioned by treaty, this exemption is never extended to commercial vessels.

He adds that the interests of maritime commerce, the peculiar police and discipline required for navigating the high seas, have nevertheless called for certain derogations from the rigor of this rule; they result sometimes from express international agreements, sometimes from local laws or administration measures. It is clearly his opinion that the exemption is not granted as a matter of obligation, unless when secured by treaty, but simply at the will and the comity of the power which concedes the favor.

I might quote other authorities to establish the distinction between crew and passengers in regard to exemption from local jurisdiction. I content myself with adding that whatever reasons may justify the exercise by the ship's captain of a certain degree of coersive discipline upon his passengers on the high sea, where their conduct may endanger the safety of the ship and the lives of their companions, those reasons entirely fail when the vessel is sheltered in a friendly port and can obtain any necessary assistance from the authorities on shore. The captain is the master of his crew. To his passengers his relation is rather that of servant, analogous to that of the keeper of a hotel to the guests whom he has taken to provide with food, lodging, and attendance. I have thus asserted the right of territorial jurisdiction only in respect to controversies between the captain or a crew of a merchant-vessel and persons not belonging to the crew. This was sufficient in strictness for the present discussion.

As, however, your excellency appears to have access to the published diplomatic correspondence of the United States of America, I take the liberty of referring you to that collection to show that the two greatest commercial nations of the world understand the territorial jurisdiction to extend also to the captain and the crew.

In volume 1, Diplomatic Correspondence for 1866, 1867, page 140, you will find the letter of Mr. Adams, American minister in London, to the Secretary of State, in which the writer narrates the protest of the captain of the ship Kentuckian against the action of the authorities of Sutherland in releasing a certain number of his crew, confined by him on board under the advice of the United States consular agent, for threatening to desert the ship. Not only did they do this, but they also inflicted a fine on him for what they allege to have been an unjust assault.

Mr. Adams then states that after examination of the correspondence of his predecessors with the British Government, he finds "that without the presence of any

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treaty stipulations touching this matter, there is no power whatever to control the action of the local authorities upon all cases of desertion, mutiny, or refusal to work, among seamen belonging to foreign vessels in the ports of this kingdom."

Upon page 169 of the same volume, you will find an instruction from Mr. Seward to Mr. Adams, proposing the negotiation of a consular convention to remedy the inconveniences of such a state of things as Mr. Adams described.

In the same volume will be found a letter from Mr. Buchanan, minister in London, to Earl Clarendon, in which he says: "The necessity for a treaty stipulation on this subject cannot be more forcibly illustrated than by the case perfectly within the Earl of Clarendon's knowledge, of mutiny which occurred on board the American ship Sovereign of the Seas, in the month of March last, (1854,) on her voyage from Melbourne to London. On that occasion ten persons proved to have been guilty of mutiny were discharged from confinement for the reason that no law exists in England authorizing their detention."

The action of the British tribunals, and the submission of the United States to it, can only be accounted for by the recognition by both nations of the doctrine that in the absence of a treaty there was no obligation requiring or even permitting the local authorities to waive their jurisdiction over even seamen of a foreign nation, who, being within a foreign port, claimed the protection of the local law, for in the words of Dr. Phillimore, now the head of the English court of admiralty, "it is a maxim that each state has a right to expect from another the observance of international obligations without regard to what may be the municipal means which it possesses for enforcing their observance."

If this maxim could ever have been doubted, its truth and force have been emphatically established by the recent decision of the Geneva arbitrators upon the so-called Alabama claims of the United States against Great Britain.

Your excellency has stated, not with absolute precision, but with sufficient accuracy for the purpose of this discussion, what were the circumstances which induced this government to make an inquiry about outrages said to have been committed by the captain of the Maria Luz, in the harbor of Yokohama. These were alleged to be not punishments inflicted to maintain discipline among his crew, but the beating, maiming, and imprisonment of persons whom to the last hour Captain Heriera designated as passengers.

To justify an inquiry, it is only necessary that this government should have had credible information that it was reasonably probable an offense had been committed. An inquiry is, in the nature of things, an attempt to ascertain the truth of allegations not sufficiently verified to justify action upon the mere assumption that they are true. The credibility of the informant is to be judged in the first instance by his personal character.

Whether his allegations were rash surmises or were supported by the facts can be determined only by the evidence brought out upon the inquiry.

The information came originally in the form of an official letter to the gaimushe from Mr. Watson, Her Britannic Majesty's chargé d'affaires, supported by a letter from Mr. Shepard, then the chargé d'affaires of the United States, who also prayed that an investigation might be made.

I am sure that your excellency will be slow to suggest that a written statement made by the diplomatic representative of a friendly power is not *prima facie* credible. If in the case of a private individual, this government might have required the sanction of an oath, before taking any action based upon his statement your excellency is very well aware that the representative of a foreign nation is privileged from being called upon to testify, or rather that it is the privilege of his sovereign that he shall be exempt from being called as a witness in the country to which he is accredited.

You may not be aware, however, that what in Christian countries is called an oath—a solemn appeal to Heaven in attestation of the truth of one's statement—was a ceremony unknown in the judicial tribunals of Niphon.

This government was entirely free to institute an investigation in any mode and by any agents, executive or judicial, which its laws provided.

In point of fact, for ages before and during the proceedings in the Maria Luz case, the executive officers of each province [Ken] were also clothed with judicial functions. This may have been an imperfect mode of administration and it has been changed. But every nation is free to adopt its own methods, and to apply them indiscriminately to natives and to aliens.

The rule of international law was laid down by Mr. Secretary Marcy to the American minister at Vienna, in an instruction, dated April 6, 1855, in these words:

"All that we can ask for our citizens in a foreign country is that in proceedings against them she shall give the full and fair benefit of her judicial system, such as it is."

On the 27th of February, 1823, Mr. Caverning, the illustrious secretary for foreign affairs of Great Britain, spoke thus in reference to the case of a British subject who had been imprisoned for some time in France, upon mere suspicion, and was then dismissed without trial:

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"It is one of the most important principles of the law of nations that a stranger visiting a foreign country, virtually binds himself in a temporary and qualified allegiance to its laws, and submits to their observance, however unwise such laws may appear to him to be, however harsh and oppressive they are. * * *

"When an Englishman goes to France or to Spain, to Russia or to Prussia, his own government cannot be expected to protect him from the operation of the laws of the countries in which he may be; nor when he goes to such places as Constantinople, Aleppo, Algiers, and other despotic states where law is scarcely heard of, is he to expect that British laws and institutions are to be transplanted thither for his peculiar protection or to distinguish him from the other subjects."

A very instructive case on this point is that of the discussion between Great Britain and Paraguay, arising from the imprisonment in the latter country of Canstatt, who claimed to be a British subject.

The correspondence was conducted on the part of Paraguay by Mr. Charles Calvo, special envoy for that purpose, and honorably known not only in South America, but throughout the world, as an experienced statesman, and most learned and conscientious writer upon international law.

He was supported by written opinions of Doctor Phillimore, now the chief judge of the British court of admiralty, and by Mons. Thouvenal and Mons. Drouyn de Lhuys, one then French minister for foreign affairs, the other law-officer of the foreign department, and afterward minister.

Canstatt had been imprisoned several months. For a considerable time he was excluded from all legal advisers or private friends, or the British consul, who formally demanded an interview with him. The preparatory evidence was collected without his being confronted with the witnesses against him. Nevertheless, these severe proceedings were successfully defended, upon the ground that Canstatt had been subjected to no different treatment than a Paraguayan would have experienced in similar circumstances.

Dr. Phillimore said, "that the laws and customs of England in criminal proceedings are better, wiser, and more humane than those of Paraguay is true, in my own personal opinion, but it is nothing but a *petitio principii* (begging the question) to apply this opinion to a foreign state. It is notorious, for example, that the principles and the modes by which criminal trials are conducted in France are in many cases and in various respects altogether opposed to the principles and the method of criminal proceedings in England; but an Englishman put upon trial for having attempted the life of the Emperor would demand in vain the application of rules for his defense which are regarded in England as inseparable from justice."

Lord John Russell was reminded by Mr. Calvo that he had, on the 31st of January, 1860, in the House of Commons, defended the refusal of the British government to interfere in behalf of a British subject who had been confined in Spain for seven months without trial, for no other offense than selling English Bibles.

The principle that every country is free to administer its own laws after its own fashions, which has been more than once vindicated with great ability by the statesmen of Peru, makes it unnecessary for me to reply to your excellency's criticisms on the manner in which the preliminary inquiry into the treatment of the passengers on the Maria Luz, in the harbor of Yokohama, was conducted, or that of the two civil suits instituted by Captain Heriera in the Kanagawa kencho. The first of those proceedings, if in any sense judicial, was like the *proces d'instruction* in the nations of continental Europe, or the inquiry by a grand jury in Great Britain and in the United States.

So far as it differed from those methods of investigation it was favorable to Captain Heriera, because he was permitted to confront and to cross-examine the witnesses against him, to have the assistance of counsel, and to produce witnesses in his defense if he desired. Neither in these respects nor in any other was there a violation of the principles of universal justice, the observance of which may be required of all nations, whatever their diversities in form and methods.

While I deem it unnecessary, yet, out of respect for your excellency's opinion, I think it right to correct some errors into which you have fallen regarding the persons who were charged with the preliminary inquiry at the Kanagawa kencho, and also in regard to what you call the Jedo convention of 1867. The copy of that paper, in the dispatch of Mr. Van Valkenburgh, (marked No. 6 of the inclosures,) with your letter, is designated by him by the less imposing title, "an arrangement." In truth, it was not in form or substance a convention, in any diplomatic sense. In the preamble it only purports to be a recommendation made by certain foreign ministers, not in the name nor on behalf of their respective governments, but as the friendly agents of land-renters at Yokohama. The latter wished the government to resume the control and management of municipal affairs in the foreign settlement, which the land-renters had found onerous and expensive. The principal feature of the arrangement was the establishment of a land and police office in charge of a foreign director, "who will be subordinate to the governor of Kanagawa."

The fourth section provides for the exercise of jurisdiction by the governor of Kana-

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gawa, acting with the advice and assistance of said director, and with such advice as he might obtain from foreign consuls, over the subjects of China and the subjects and citizens of non-treaty powers.

This not being an international compact, it was not reduced to the form of a solemn convention, and was never ratified by His Majesty the Tenno, or the Thozun, or by the chief of any of the treaty powers.

It was a temporary arrangement thought essential, say the foreign ministers who recommended it, "under present circumstances, to secure the maintenance of order and health within the foreign settlement." It did not fix any time during which it should remain in force. It is, therefore, either binding forever, or it might be abrogated at the pleasure of this government. This is particularly true of the fourth article, which, if considered as a perpetual obligation, is one of ridiculous absurdity. All the treaties made by Niphon were by their express provisions to expire at her option in July, 1872. It is impossible to suppose that the foreign minister, or the officers of the Thozun who accepted their recommendation, intended to make an arrangement which should control the rights of subjects of powers which they did not represent for any longer a period than their own fellow-subjects whom they did represent.

Peru was then and is now a non-treaty power.

Your excellency would be astonished and indignant if you were told by the officer whom His Majesty the Tenno may authorize to negotiate with you a treaty of amity and commerce, that, while perfectly free on all other points, we cannot relieve the citizen of Peru from being subject to coercive jurisdiction exercised by the majority of a board of foreign consuls. You would ask, I think, by what right the ministers of Great Britain, France, the United States, Germany, and Holland undertook to stipulate in what manner the citizens of Peru should be tried, not for a few days, "under present circumstances," but for all time? If the pretension of some of the consuls were admissible, that they had a right not only to give advice, but that their advice or that of a majority of them should be controlling—so that the governor of Kanagawa would be only a mouth-piece to utter their decision—then the extraordinary result would follow, that this government might be made responsible to a foreign nation for an erroneous decision which it had no power to prevent or reverse.

In point of fact the governor of Kanagawa in the preliminary inquiry did have the advice and assistance of the foreign municipal director. He moreover invited the attendance and advice of the foreign consuls, as he did that of certain legal gentlemen to whom you allude.

He adopted just so much of the advice of those persons as commended itself to his judgment and conscience. He disregarded the rest, as was his right and his duty. He was to be responsible for the recommendation he should make as to the result of the inquiry, not they nor any of them.

The governor's investigation led him to the opinion that while Captain Heriera had rendered himself justly liable to punishment for acts of cruelty to his passengers, committed in the harbor of Yokohama, yet, in consideration of the delay and inconvenience he had sustained, he recommended that his offense should be overlooked, and he be permitted to depart with his vessel. This recommendation was approved, and no further proceedings were taken against Captain Heriera. His ship was never subjected to any process or detention by this government. The captain himself stated to the court when it was hearing the civil action brought by him, "I understood that it was wished that I should leave with the ship and let the coolies remain behind, without giving any more trouble to the kencho."

The captain chose to detain his vessel while the inquiry was in progress. During that time he was relieved from the expense of feeding his passengers, who, being kept as witnesses, were provided with food and lodging by this government. As to any delay caused by the civil suits, this was a matter of his own will, as was the subsequent abandonment of the Maria Luz, first by himself and afterward by the crew.

It may be said that the detention of the passengers during the preliminary inquiry —the captain was never arrested or restrained—made it a practical necessity for him to detain the ship. Supposing this to be true, we come to the question, did the facts justify that inquiry? Your excellency has been furnished most frankly with the original record of the proceedings at the Kanagawa kencho, and has doubtless preserved in copy such extracts as you deem material. You remark that the greater portion of the "inquiry" was occupied with investigations into acts accomplished out of Japanese waters.

Let us see how that happened. The first witness was the Chinaman Mok-hing. The governor, after alluding to his having jumped overboard from the Maria Luz, being taken up and sent back to the ship, said to him, "I now wish to know exactly why you left the ship." This was intended to call out any complaint he might have to make about wrong committed on him in the harbor, without indicating in the slightest degree the answer that was expected and desired.

Mok-hing, of his own accord, replied: "On the 18th day of the 4th month I was kidnapped by some Chinamen who brought me on board the ship * * *. A few days afterward I was locked up by the captain and ill-treated."

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Thus far his statement related to acts which had occurred within the jurisdiction of China, or upon the high seas. It was volunteered by him, not sought by the governor.

As he spoke only Chinese, which had to be translated into the language of Niphon, the governor could not know what he said until his answer was completed and turned into Japanese by the interpreter. The governor, therefore, could not arrest a statement if he had thought it irrelevant.

Mok-hing then continued in these words, (as translated into English,) making a part of the same answer:

"As I did not like to die on board the ship I jumped into the water. I was badly treated and struck, and finally my cue was cut off."

These last facts, abundantly confirmed by other testimony, occurred in the harbor of Yokohama.

I pause to remark that your excellency very much underestimates the injury to a Chinaman from the loss of his cue. The operation, it is true, occasions no physical pain. It is very probable that Captain Heriera selected this mode of punishment with the view of giving a most impressive and deterring example to the other Chinamen, without bodily suffering to the individual offender.

He had made six voyages with Chinese passengers, and he knew that the cutting off of the cue is an ignominious punishment in their country, and that the want of it is the mark of crime and degradation. You remark that the amputation of the cue is "not an affront, as very few Chinamen use their tails out of their own country." This has probably been what your excellency has seen in Peru.

Practices like that of Captain Heriera may explain the fact. But you may easily observe that you meet no Chinaman in Japan destitute of his cue, nor will you find one among the thousands of Chinese who every year pass through Yokohama upon the American mail steamers; nor, as I am informed, will you find one among the nearly 100,000 Chinamen in the United States, unless he has been outraged by mob-violence or punished for crime by his own countrymen.

Immediately after Mok-hing was examined, and upon the same day, Captain Heriera was called upon for his statement. He admitted that he had put this man and three or four others in irons, and that he had ordered the cues of three to be cut off in the harbor of Yokohama. He asserted that all the people on board were well off, and added: "It is no use to ask one man only; ask twenty-five or thirty of them—as many as you like."

The governor accepted this invitation.

He sent for and examined all the passengers then on board with the exception of a girl of tender years. The captain did not affect to conceal, on this examination, that the object of these punishments was to confine the passengers on shipboard. He said: "There was no help for it. If all the Chinamen were trying to get ashore, how should I do?" He gave, as a further reason for beating them and ironing them, that "they tried to put fire to the ship." Being asked how many men, he replied, "All of them."

This he said was within six or seven days previous to his statement, consequently it was after the arrival of the ship at Yokohama.

He also intimated at this time, what was fully proved upon the trial of the civil suits, that there had been a previous attempt of the passengers to set fire to the ship a few days after leaving Macao.

The Chinaman A'Tak testified that his cue was cut off by order of the captain because he escaped from the ship, and that the reason he ran away was because he had not enough to eat, and because he was beaten with a rattan. Almost all the Chinese complained of insufficient food, and several of cruel treatment. The facts admitted by Captain Heriera were amply sufficient to justify an inquiry into the condition of things on board the ship.

It was unmistakably shown that the passengers were dissatisfied with their treatment, and alarmed about the prospects for their future. Upon the trial of the civil actions the captain was called as a witness by his own counsel, as were also several officers of the ship.

We are entitled to the benefit of the corroboration thus volunteered to the allegations of the passengers.

I shall confine myself to the statements of the captain and his officers. The captain said that 15 or 20 of the coolies jumped overboard in the harbor of Yokohama, but they came back because they could not swim, the captain sending a boat to pick them up.

Your excellency speaks of the *ennui* which affects men not accustomed to life on ship-board. I must be pardoned if I hesitate to believe that this is sufficient to account for the willingness of fifteen or more men who knew that they could not swim, to peril their lives by jumping into the sea.

The captain also said, "I sometimes used a rattan for quelling the rebellion. I also put the conspirators in irons for thirteen or fourteen days, from the 9th day of June." This shows that a state of aggravated *ennui* had developed itself at very early stage of the voyage.

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The rebellion (as the captain called it) was described by Sevena, the ship's steward, as an attempt by the passengers to set fire to the ship, which he himself discovered. Straw and other inflammable materials had been fixed for that purpose. All the passengers, he said, told that it had been arranged for such purpose.

He appears to have been experienced in such matters, for he added, "it had been done in the way it is generally done."

Your excellency's maritime experience has qualified you to state whether it is a usual occurrence, a thing "generally done," for free passengers to sacrifice their lives by setting fire to their ship at sea. No such incident, I think, can be found among the millions of emigrants from Europe to North America.

From the statements of the captain and Ariers, the mate, it appeared that one passenger jumped overboard at sea on the 30th of May; another on the 6th of June, (two days before the first attempt to fire the vessel,) and a third at some date not known, but before the arrival at Yokohama. These antecedents were surely quite pertinent to the weighing of the probability of the complaints of wrong inflicted on the passengers after their coming within the waters of this empire. Suppose, for the sake of the argument, that this government had no right to relieve the passengers or to punish Captain Heriera on account of any facts which had happened upon the high seas, or in the territory of a foreign nation, nevertheless, for the mere purpose of ascertaining whether the captain or the passengers were to be believed in their conflicting stories about the treatment of them within the jurisdiction of Niphon, it was entirely proper upon all principles of judicial investigation to inquire into the history of the voyage so far as that would show whether the captain felt a necessity of using great severity to deter his passengers from abandoning the ship at Yokohama.

When the governor made his decision in the civil suits, refusing to compel two of the passengers to return to the Maria Luz, he acted in a judicial capacity.

I might invoke the well-known rule, that a nation has no right to intervene by diplomatic agencies in behalf of its subject, who supposes himself to have been injured by a judicial sentence, until he has exhausted all his remedies by appeal to the court of last resort. Neither Captain Heriera nor any other person made the appeal which they might have made to the shihosho, the highest judicial power of this empire.

I waive this objection for two reasons: First, because this government is content to abide the responsibility of the governor's decision without desiring it to be reviewed by a higher tribunal; second, because I think the question was essentially one of extradition and the act of depriving a person of the protection of the government within which he may happen to be.

It is always one of executive or political administration, to which the judicial tribunals are only advisers, not the controlling power. I do not disclaim any one of the reasons by which Governor Oye Takee defends his decision, but I think a single one is sufficient to justify it.

The passengers had been brought on shore at the captain's suggestion and by his request. They were legitimately in charge of the governor of Kanagawa. They begged the protection of this government. To drive them out of that protection under any pretense and by whatever name the process might be called, specific performance, for instance, is equivalent to the extradition of a fugitive criminal or of a deserting seaman.

I shall cite but one authority that there is no obligation of international law which requires one nation to hand over to another persons guilty of the blackest crimes unless there is a special treaty creating that obligation, which, in all cases, is reciprocal. When it has been done, as in some instances I admit it has been done, when no treaty required it, it was for the reason that the presence of a criminal is dangerous to the peace and safety of the nation in which he has sought concealment and refuge.

Your excellency has referred to the case of the Creole. For that reason I quote from the letter of Mr. Webster (the American Secretary of State) to Lord Ashburton, the British minister, in relation to that very case: "If persons guilty of crime in the United States seek an asylum in British dominions, they will not be demanded until provision for such cases be made by treaty, because the giving up of criminal fugitives from justice is agreed and understood to be a matter in which every nation regulates its conduct according to its own discretion. It is no breach of comity to refuse such surrender."

The right to refuse such surrender is made much stronger in the case of persons claimed only because they violate a contract which requires them to leave the country than in the case of persons who have been guilty of crimes. The contract of a seaman to assist in navigating a ship to the end of her voyage, is of the most honorable character. Your excellency, being yourself a gallant and distinguished sailor, has a natural abhorrence of the seaman who deserts his colors. If the sailors abandon a vessel she is quite as helpless as if she had lost her masts. All commercial nations have, therefore, the highest interest in compelling seamen to perform their contracts.

But you are very well aware that no obligation exists by which the nation in whose port a sailor deserts should compel him to return to his ship unless there is an express

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provision by treaty. The tenth article of the treaty between Peru and Great Britain, signed on the 10th of April, 1850, which creates such an obligation on both sides, is a proof that the obligation could only arise from a treaty. It was very carefully provided in the declaration made by Lord Malmsbury on exchanging the ratifications of this treaty, that it should not apply to seamen being slaves, who might desert from merchant-ships belonging to citizens of Peru.

Why this reservation should be made in respect to a nation which as early as 1821 had decreed the freedom of every slave who should arrive in the territory of Peru, your excellency may be able to explain.

The strongest illustration of this rule of international law is presented by Great Britain and the United States of America. They are the two most commercial nations of the world. The sails of their shipping whiten every sea. Their seamen speak the same language. From this fact, and the general similarity of habits and manners, a sailor of either country finds more facilities and temptations to desert in the ports of the other than he does in those of any third nation where the dialect and the customs are strange to him. Consequently, British seamen desert in America, where they have the special inducements of higher wages, and American seamen desert in the ports of Great Britain and of her colonies scattered over the globe every day. Neither nation surrenders them, simply because there is no treaty which commands the surrender, though both nations have enacted laws which provide for the surrender of deserting seamen to powers which have bound themselves to reciprocate the courtesy. This state of things has lasted since the United States began their existence as an independent power. It endures to this day, though both parties have so great an interest in making an arrangement.

Your excellency states that the case of the Maria Luz was the first in which any Chinese emigrants upon Peruvian ships have been set at liberty. You refer in particular to the ports of Honolulu, Batavia, and Saint Helena, at which ships freighted with coolies have voluntarily entered and have been allowed to depart with their passengers. I might suggest, by way of conjecture, that the reason was simply that the coolies had never the opportunity to ask a court to give them freedom. But I am able to cite a precedent at Honolulu, in which the supreme court of the Hawaiian Islands discharged Mong Song kept in restraint on board the Italian steamer Gleusmuox. This man admitted that he had voluntarily entered into a contract at Macao to work in Costa Rica. The judge declared, "I see no authority in the contract, and none in our laws or treaties whereby the captain can prevent this passenger from coming on shore, or which authorizes this court to order the passenger to remain on board. As far as our law goes, he can land on these shores as freely as any other passenger, and he is accordingly allowed to go at large."

I confidently trust that upon considering this exposition of the affair the enlightened government of Peru will see that this government did no injustice to its citizens. It certainly had no intention to affront the dignity of Peru.

If any wrong whatever has been done it is because a number of Chinamen chose to violate their contracts. It was impossible in this empire to compel them to perform those contracts specifically, or to drive them outside of the protection to which they were entitled, not only by the laws of humanity but by the special obligations which connect this empire with the empire of China.

I shall await the further instructions which your excellency may receive from your government, and will give to any further communication you may make on this subject, after you have received such instructions, the most candid consideration, with the earnest desire to cultivate the most friendly relations with your interesting country.

With respect and consideration.

OYENO KAGENORI.

No. 263.

Mr. De Long to Mr. Fish.

No. 433.] UNITED STATES LEGATION, YOKOHAMA, JAPAN, *June* 21, 1873. (Received July 22.)

SIR: I have the honor to inform you that I have just received a note from Señor Aurilio Garcia y Garcia, the Peruvian envoy, which reads as follows:

LEGATION DEL PERU, YEDO, *June* 20, 1873.

MY DEAR FRIEND: After a very long discussion with the minister for foreign affairs, Mr. Woogem, which I asked for in view of his answer to my dispatch on the Maria

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Luz case, we agreed yesterday and have signed a protocol referring that case to the arbitration of the chief of a friendly state. The difference between Peru and Japan has thus ended.

The only thing to be done now is to select the arbitrator and submit the case to him.

Convinced that this news will be gratifying to you,

I am, yours very sincerely,

A. G. Y GARCIA.

His Excellency C. E. DE LONG, &c.

I am, &c.,

C. E. DE LONG.

No. 264.

Mr. De Long to Mr. Fish.

No. 440.] LEGATION OF THE UNITED STATES IN JAPAN,
Yokohama, July 5, 1873. (Received August 7.)

SIR: I have the honor to forward for your information copy of protocol signed by the Peruvian and Japanese ministers on the 19th of June last, agreeing to submit the Maria Luz dispute for decision by the chief of some friendly state. (Inclosure No. 1.)

Also, copy of a further protocol between the same authorities, selecting His Majesty the Emperor of Russia as such arbitrator, and arranging the details of submission. (Inclosure 2.)

I have, &c.,

C. E. DE LONG.

PROTOCOL.

On the 19th of June, 1873, a conference took place at the department of foreign affairs of Japan, between the undersigned, Captain Aurelio Garcia y Garcia, envoy extraordinary and minister plenipotentiary of Peru, and Wooyeno Kagenori, His Imperial Japanese Majesty's acting minister for foreign affairs, in reference to the discussion pending between the two governments, growing out of the case of the Peruvian bark Maria Luz.

The Peruvian minister opened the conference by referring to Mr. Wooyeno's dispatch of June 14, 1873, stating that he had seen, with great satisfaction, the declaration of the minister for foreign affairs that the Japanese government, in the Maria Luz case, had no intention to affront the dignity of Peru, and added that he was sorry to be obliged to say that Mr. Wooyeno's arguments to prove that no injustice had been done to Peruvian citizens did not satisfy him. Captain Garcia then explained at length all the points of disagreement between his views of the case as exposed in his note of 31st March, 1873, and those of Mr. Wooyeno's in reply, and concluded that the Japanese government, in his opinion, had not proved their irresponsibility.

The minister for foreign affairs discussed the several objections presented by the Peruvian minister, and endeavored to demonstrate that in the case of the bark Maria Luz the Japanese government had acted in strict observance of law and the principles of justice.

A long and frank discussion ensued between both ministers, each one sustaining his arguments and conclusions.

It being evident that each government thought itself in the right, and neither being willing to yield any point to the other, this irreconcilable diversity of opinion, united to the earnest desire expressed by both of cultivating the most friendly relations, led the undersigned in representation of the governments of Peru and Japan to agree to submit the case to the decision of an impartial judge, to be the chief of a friendly state.

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The undersigned will, as soon as possible, agree upon the selection of the arbitrator and the manner of submitting the case to him.

In testimony of which the undersigned have subscribed these presents, in quadruplicate, in the city of Yedo, on the 19th of June, 1873.

AURELIO GARCIA Y GARCIA.
WOOYENO KAGENORI.

A true copy:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

PROTOCOL.

The undersigned, Captain Aurelio G. y Garcia, envoy extraordinary and minister plenipotentiary of Peru, and Wooyeno Kagenori, His Imperial Japanese Majesty's acting minister for foreign affairs, having stipulated in the agreement of which a protocol was signed on the 19th day of the present month, that the difference pending between the two governments growing out of the Maria Luz case be submitted to the arbitration of the chief of a friendly state, have, at a further conference, held at the Gwaimusho on the 22d day of June, 1873, agreed on behalf of their respective governments to refer the case to the decision of His Majesty the Emperor of all the Russias as arbitrator.

They have also agreed—

1st. That the note to be addressed by both governments to the government of His Majesty the Emperor, requesting his acceptance, shall be dispatched by them respectively in the course of the month of December of the present year.

2d. Within twelve months after the date of the acceptance by His Majesty, each government shall present its case to the arbitrator. The evidence to be presented may comprise such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

3d. Within six months from the date of receiving the notification of the arbitrator's acceptance, the respective parties shall transmit to each other copies of all the papers which they intend to submit to his consideration, but each shall be at liberty to present to the arbitrator any rebutting evidence and such arguments as it may deem proper; for this purpose either government may appoint an agent or agents near the court of His Majesty to conduct its case before the arbitrator.

4th. The arbitrator shall be requested to decide if the claim of Peru is well founded, and if it is what indemnity shall be paid by Japan.

5th. The award of His Majesty the Emperor of all the Russias shall be considered as absolutely final and conclusive, and full effect shall be given to such award without any objection, evasion, or delay whatsoever.

And whereas the bark Maria Luz, abandoned by her captain, now lies in the Bay of Yokohama, in charge of a guardian placed on board of her by the then representative of Peru, in Japan, the Hon. C. E. De Long, minister of the United States, and with the consent of the Japanese government; and whereas that guardianship has been and is now the cause of daily expense, the undersigned, equally desirous to bring to an end this state of things, have agreed that the ship shall be sold in public auction for the benefit of all parties interested in the vessel.

Both governments declining to receive the proceeds of the sale, such proceeds, after the payment of the expenses of keeping the ship since her abandonment, are to be deposited in a bank of Yokohama, to await such disposition as may be ordered by a competent court or by the arbitrator.

In testimony of which the undersigned have subscribed and sealed the present agreement, which shall be approved by the President of Peru.

Done in quadruplicate in the city of Takee, (Yedo,) on the 25th of June, 1873, corresponding to the Japanese date, the 25th day, 6th month, 6th year of Meiji.

[L. S.] AURELIO G. Y GARCIA.
[L. S.] WOOYENO KAGENORI.

A true copy:

J. FREDRICO ELMORE,
Secretary Peruvian Legation.

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No. 265.

Mr. De Long to Mr. Fish.

No. 461.] UNITED STATES LEGATION,
Japan, August 20, 1873. (Received September 19.)

SIR: I have the honor to inform you that on the 15th of July last I received a note from the Japanese acting minister for foreign affairs and the minister for Peru, in Japan, requesting me to sell the bark Maria Luz. (Inclosure No. 1.)

To this I replied on the following day consenting to discharge the duty they had requested me to perform. (Inclosure No. 2.)

On the 20th of the same month I addressed those gentlemen another note, (inclosure No. 3,) forwarding copy of a published notice of the sale of said bark, (inclosure No. 4,) also copy of inventory of personal property on board of the vessel to be sold with her. (Inclosure No. 5.)

On the 22d of July I received a note from the Peruvian minister in reply. (Inclosure No. 6.)

On the 6th instant I again addressed a note in duplicate to the two ministers informing them of the sale of the bark, the price obtained, &c., (inclosure No. 7,) inclosing copy of the auctioneer's account of sales. (Inclosure No. 8.)

Copy of account of Messrs. Walsh, Hall & Co. for keeping the vessel, (inclosure No. 9,) and also copy of draft of bill of sale that it was requested that I should sign. (Inclosure No. 10.)

On the 8th instant I received a reply from the Peruvian minister approving of the account, and requesting me to conclude the business by executing the bill of sale; thanking me for my services, &c. (Inclosure No 11.)

On the 9th instant I received a note of similar import from the Japanese minister. (Inclosure No. 12.) On the 11th instant I settled with the auctioneer and obtained his receipt. (Inclosure No. 13.) Also with Messrs. Walsh, Hall & Co. and obtained their receipt. (Inclosure No. 14.)

Also on the same day I deposited the residue in bank for the benefit of the creditors of the Maria Luz, as per certificate. (Inclosure No. 15.)

On the 12th instant I again addressed the Japanese and Peruvian ministers, advising them of my proceedings, forwarding copies of receipts, &c. (Inclosure No. 16.) On the 15th instant I received a reply from the Peruvian minister, acknowledging receipt of my note and approving of my proceedings. (Inclosure No. 17.)

The reply of the Japanese minister has not yet been received.

In accepting this trust I was actuated solely by a desire to relieve the officials of a subject they could neither handle consistently without the aid of a neutral friend; and in discharging this trust I was extremely cautious to do nothing not first made known to and sanctioned by them; and I also guarded all of my acts that no pecuniary or political responsibility could in any event attach to the Government of the United States; and I sincerely trust that what I have done may meet with your kind approval.

I have, &c.,

C. E. DE LONG.

P. S. Since writing the foregoing I have received the expected note from the Japanese minister. (Inclosure No. 18.)

C. E. DE LONG.

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[Inclosure 1.]

YEDO, *July* 14, 1873.

EXCELLENCY: We have the honor to bring to your excellency's notice the following extract from the protocol of the agreement made on the 23d June, 1873, by the undersigned in representation of Peru and Japan, for submission to His Majesty, the Emperor of all the Russias, of the difference between the two governments growing out of the case of the Maria Luz:

Whereas the bark Maria Luz, abandoned by her captain, now lies in bay of Yokohama in charge of a guardian placed on board of her by the then representative of Peru in Japan, the Hon. C. E. De Long, minister of the United States, and with the consent of the Japanese government; and whereas that guardianship has been and is now the cause of daily expense, the undersigned, equally desirous to bring to an end this state of things, have agreed that the ship shall be sold at public auction for the benefit of all parties interested in the vessel. Both governments declining to receive the proceeds of the sale, such proceeds, after paying the expense of keeping the ship since her abandonment, are to be deposited in the Bank of Yokohama to await such disposition as may be ordered by a competent court or by the arbitrator.

We beg in consequence to say that it will be agreeable to the undersigned if your excellency, who with the consent of the Japanese government took charge of the ship in October, 1872, acting for Peruvian interests, will trouble yourself in view of the condition of the bark not having been modified since, and do us the service to take measures for selling the Maria Luz at such time and in such manner in conformity with the protocol as in your judgment will be likely to obtain the best price, and will dispose of the proceeds, less expenses of sale, according to the terms of the above agreement, it being understood that this action on your part shall in no case be a cause of any responsibility to the Government or to yourself.

We have the honor to assure your excellency of our highest and most distinguished consideration.

(Signature of minister for foreign affairs in Japanese.

AURELIO GA Y GARCIA,
Envoy Extraordinary and Minister Plenipotentiary of Peru in Japan.

[Inclosure 2.]

Mr. De Long to their Excellencies Oyeno Kagenori, acting minister for foreign affairs of His Imperial Japanese Majesty, and Aurelio Ga y Garcia, envoy extraordinary and minister plenipotentiary of Peru in Japan.

UNITED STATES LEGATION, YOKOHAMA, *July* 15, 1873.

SIRS: The undersigned, acknowledging the receipt of your communication addressed to him of date the 14th instant, with respect to the disposition of the bark Maria Luz, begs leave in reply to state that as a matter of accommodation he will forthwith comply with the request you make. The undersigned begs leave to assure your excellency of his high and most distinguished consideration.

C. E. DE LONG.

[Inclosure 3.]

Mr. De Long to Oyeno Kagenori and Aurelio Garcia y Garcia.

UNITED STATES LEGATION, JAPAN, *July* 20, 1873.

GENTLEMEN: I have the honor to inclose for your information copy of published notice of sale of bark Maria Luz, with her cargo; also copy of inventory of personal property on board of the vessel which will be sold with her.

I have, &c.,

C. E. DE LONG.

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[Inclosure 4.]

[From the Japan Daily Herald.]

NOTIFICATION.

The undersigned has received from their excellencies the acting minister for foreign affairs for Japan, and the envoy extraordinary and minister plenipotentiary of Peru in Japan, the following joint official note, to wit:

To His Excellency C. E. De Long, envoy extraordinary and minister plenipotentiary of the United States in Japan.

YEDO, *July* 14, 1873.

EXCELLENCY: We have the honor to bring to your excellency's notice the following extracts from the protocol of the agreement made on the 25th of June, 1873, by the undersigned, in representation of Japan and Peru, for the submission to His Majesty, the Emperor of all the Russias, of the difference between the two governments growing out of the Maria Luz case:

Whereas the bark Maria Luz, abandoned by her captain, now lies in the bay of Yokohama in charge of a guardian placed on board of her by the then representative of Peru in Japan, the Hon. C. E. De Long, minister of the United States, and with the consent of the Japanese government; and whereas that guardianship has been and is now the cause of daily expense, the undersigned, equally desirous to bring to an end this state of things, have agreed that the ship shall be sold at public auction for the benefit of all parties interested in the vessel.

Both governments declining to receive the proceeds of the sale, such proceeds, after the payment of the expenses of keeping the ship since her abandonment, are to be deposited in the Bank of Yokohama, to await such disposition as may be ordered by a competent court or by the arbitrator.

We beg, in consequence, to say that it will be agreeable to the undersigned if your excellency, who, with the consent of the Japanese government, took charge of the ship in October, 1872, acting for Peruvian interests, will trouble yourself, in view of the condition of the bark not having been modified since, and do us the service to take measures for selling the Maria Luz, at such time and in such manner, in conformity with the protocol, as in your judgment will be likely to obtain the best price, and will dispose of the proceeds, less expenses of sale, according to the terms of the above agreement, it being understood that this action on your part shall in no case be a cause of any responsibility to the Government of the United States or to yourself.

We have the honor to assure your excellency of our highest and most distinguished consideration.

GAIMUSHO-YU UYENO,
AURELIO GA Y GARCIA,
Envoy Extraordinary and Minister Plenipotentiary of Peru in Japan.

The undersigned has, in pursuance of such request, given directions to Messrs. C. A. Fletcher & Co. to sell the bark Maria Luz, with all her appurtenances, cargo, &c., by public auction, in the bay of Yokohama, on the 1st day of August, at 10 o'clock a. m.

C. E. DE LONG,
Envoy Extraordinary and Minister Plenipotentiary of the United States in Japan.

YOKOHAMA, *July* 19, 1873.

[Inclosure 5.]

INVENTORY OF THE MARIA LUZ.

Ground-tackle.

1 bower-anchor.
1 bower-anchor.
1 stream-anchor.
1 bower-chain, 150 fathoms.
1 bower-chain, 150 fathoms.
1 kedge-anchor.

Compasses, &c.

2 brass compasses.
1 tell-tale compass.
1 brass binnacle.
2 brass binnacle lanterns
1 telescope.
2 28-second glasses.
1 14-second glass.
4 side lanterns.
8 tin lanterns.
1 barometer.

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Cordage.

1 hawser.
1 coil 3½-inch manila rope, (new.)
¾ coil 3½-inch manila rope.
½ coil 2½-inch manila rope.
1 bundle hemp twine.
5 pieces rattling stuff.
1 lot spun yarn.

Sails.

2 royals, (new.)
1 main-top-gallant staysail.
1 flying-jib.
1 main-top-gallant sail.
1 mainsail.
1 fore-top-gallant sail.
1 foresail.
1 jib.
1 mizzen staysail.
1 mizzen top-mast staysail.
2 deck-awnings.
1 new sail.
1 top-mast stunsail, (new.)
1 lower stunsail.
1 lower fore-topsail.
1 lower mainsail.
1 upper mainsail.
1 upper fore-topsail.
1 fore-top-mast staysail.
1 main-top-mast staysail.
1 mizzen gaff topsail.
1 spanker.
1 wind-sail.
11 old sundry sails.

Colors and signals.

Sundry signals.

Cabin furniture.

1 sofa.
1 dining-table.
1 kerosene lamp.
7 rifles and bayonets.
6 chairs.
1 looking-glass.
1 medicine-chest.
2 mattresses.

Pantry.

1 cruet-stand.
1 sugar-bowl.
8 meat-dishes.
21 soup-plates.
21 dinner-plates.
18 breakfast-plates.
33 wine-glasses.
1 decanter.
1 gravy-dish.
1 gravy-bowl.
1 milk-jug.
1 jug.
3 tumblers.
1 cup.
2 saucers.
5 knives and 5 forks.
1 coffee-pot.
1 tea-pot.
6 tea-spoons.
2 table-spoons.
2 table-cloths.
1 butter-dish.
2 fruit-dishes.
2 salt-cellars.

Galley.

1 cooking-range.
1 ladle.
2 large forks.
1 coffee-mill.
1 tureen.
6 saucepans.
2 frying-pans.
1 baking-pan.
1 pair scales.
7 wood-choppers.

Deck.

1 steering-wheel.
2 life-buoys.
4 iron water-tanks.
2 harness casks.
1 capstan.
5 gratings over hatches.
1 wooden winch.
1 deck-pump and hose.
6 deck-buckets.
3 hatch-awnings.

Chinese galley.

1 lot cooking utensils.
1 lot dippers.
100 tin pans.
230 tin cups.

Extra.

Several spare blocks.
1 short piece deep-sea line.
2¼ bolts canvas, new.
4 sheets yellow metal.
27 pairs shackles.
2 top-gallant masts.
2 royal-masts.
1 spar.
1 pair rigging-screws.
3 stone tea-pots.

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Boats.

1 life-boat.
1 brass yoke.
1 long-boat.

Stores.

About 200 sacks rice.
2 boxes soda.
About 6 barrels bread.
3 boxes sago.
1 box vermicelli.
50 boxes fish.
Part of barrel vinegar.
Part of barrel lime-juice.
Part of barrel bean-oil.
2 barrels liquid.
6 baskets sugar.
23 boxes tea.
10 dozen China hats.
36 barrels salt meat.
47 sacks beans and pease.
7 boxes tobacco and cigars.
7 baskets lime.
147 baskets.
4 buckets.
6 tubs.
About 7 tubs ducks' eggs.
80 water-casks.
5 ship's scrapers.
2 pairs tongs.
Stone ballast.
9 ladders and steps.
8 padlocks.
1 log-line and reels.
2 normans.
1 lot Chinese clothes.
1 harpoon.
1 copper fresh-water pump.
A complete set of running-gear, fore and aft.

[Inclosure 6.]

Mr. Garcia to Mr. De Long.

No. 6.] LEGATION DEL PERU,
Yedo, July 22, 1873.

EXCELLENCY: I have the honor to acknowledge receipt of your excellency's note No. 56, dated 20th instant, addressed in duplicate to the gaimusho and to this legation, in which you inclose copies of published notice of sale and of inventory of the bark Maria Luz.

Giving you my sincere thanks for your note and its inclosures, I beg your excellency to accept the renewed expressions of my high consideration and regard,

AURELIO GA Y GARCIA.

[Inclosure 7.]

Mr. De Long to Soyeshima Tane-omi, Uyeno Kagenori, and Mr. Garcia.

No. 60.] UNITED STATES LEGATION,
Japan, August 7, 1873.

The undersigned has the honor to advise you that on the 1st instant the bark Maria Luz was sold at auction. The auctioneer, C. A. Fletcher, esq., yesterday morning returned to the undersigned an account of sale. (Inclosure No. 1.) The undersigned also received yesterday morning an account stated from Messrs. Walsh, Hall & Co., covering the expense of keeping the bark from the date when the undersigned took her into his possession until this date. (Inclosure No. 2.) The undersigned also forwards copy of a draft of a bill of sale of the bark, which the purchaser requests the undersigned to sign when making delivery of the vessel. (Inclosure No. 3.) The undersigned makes proffer of the document to your excellencies for your information and consideration, requesting your excellencies in reply to advise him, if he shall accept the money from Captain Fletcher as per his account of sales, to pay Messrs. Walsh, Hall & Co. the amount of their account rendered by them, sign the bill of sale, deliver the bark to the purchaser, and deposit the residue of the money in bank for the benefit of creditors of the vessel.

An early answer will oblige the undersigned, who begs to subscribe himself, your most obedient servant,

C. E. DE LONG.

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[Inclosure 8, or 1 in 7.]

Account sales bark Maria Luz, sold by order of his excellency C. E. De Long at public auction by the undersigned on account of the concerned.

The bark Maria Luz, with inventory		$7,250 00
Charges.		
Advertising in Japan Herald-Gazette, Nishni Shnigishi, month	$60 00	
Inventories, 100	10 00	
Boat and coolie hire and provisions	4 00	
Commission	217 50	
		291 50
Net proceeds secured by H. K. & S. Bank, payable August 11, 1873		6,958 50

C. A. FLETCHER & CO.,
Auctioneers.

E. & O. E.
YOKOHAMA, *August* 2, 1873.

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[Inclosure 9, or 2 in 7.]

Dr. *The Peruvian bark Maria Luz in account-current with Walsh, Hall & Co.* Cr.

1872.			1873.		
Nov. 12	To cash paid Mr. De Long; order favor Captain Trask	$638 00	May 5	By balance	$1,807 48
Nov. 30	To cash paid portage bill and compradores, account for November	174 23			
Dec. 30	To cash paid portage bill and compradores, account for December	254 36			
1873.					
Feb. 1	To cash paid portage bill and compradores, account for January	147 30			
Mar. 18	To cash paid portage bill and compradores, account for February	148 94			
Apr. 2	To cash paid portage bill and compradores, account for March	137 48			
May 3	To cash paid portage bill and compradores, account for April	159 79			
May 5	To commission disbursing 5% on $1,666.10	83 00			
May 5	To interest to date @ 12% per annum	64 38			
	Total	1,807 48			
1873.					
May 5	To balance brought down	1,807 48		By balance	1,807 48
June 2	To cash paid portage bill and compradores, account for May	136 85			2,245 22
July 1	To cash paid portage bill and compradores, account for June	137 14			
July 31	To cash paid portage bill and compradores, account for July	138 31			
Aug. 6	To commission disbursing $412.30 @ 5%	20 62			
Aug. 6	To interest on payment since May 5 to date @ 12% per annum	4 82			
Aug. 6	To balance brought down	2,245 22		E. and O. E	2,245 22

YOKOHAMA, *August* 6, 1873. WALSH, HALL & CO.

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[Inclosure 10, or 3 in 7.]

Bill of sale.

Official number of ship, ——; date of registry, ——. General description of ship, — Name of ship, Maria Luz; British or foreign built, British; original port of registry, Whitehaven; how propelled, sails; number of decks, two; number of masts, three: rigged, bark; stern, ——; build, Carrel; galleries, none; head, woman's bust; framework, wood.

Measurements: Length from the fore part of stern, under the bowsprit, to the aft side of the head of the stern-post, 109 feet 2 inches; main breadth, outside of plank, 26 feet 8 inches; depth in hold from tonnage-deck, 18 feet 5 inches.

Tonnage: Tonnage on main tonnage-deck closed in, spaces above tonnage-deck if any space or spaces between decks, ——; poop, ——; round-house, ——; depth in hold from tonnage-deck to ceiling, ——. Total tons, 390.

I, Charles E. De Long, having been authorized by the following official note, to wit:

"To His Excellency C. E. De Long, envoy extraordinary and minister plenipotentiary of the United States in Japan:

"YEDO, *July* 14, 1873.

"EXCELLENCY: We have the honor to bring to your excellency's notice the following extracts from the protocol of the agreement made on the 28th of June, 1873, by the undersigned, in representation of Japan and Peru for the submission to His Majesty the Emperor of all the Russias, of the difference between the two governments growing out of the case of the Maria Luz.

"Whereas the bark Maria Luz, abandoned by her captain, now lies in the harbor of Yokohama in charge of a guardian placed on board of her by the representative of Peru in Japan, the Hon. C. E. De Long, minister of the United States, and with the consent of the Japanese government; and whereas that guardianship has been and is now the cause of daily expense, the undersigned, equally desirous to bring to an end this state of things, have agreed that the ship shall be sold in public auction for the benefit of all parties concerned in the vessel. Both governments declining to receive the proceeds of the sale, such proceeds, after the payment of the expenses of keeping the ship since her abandonment, are to be deposited in a bank of Yokohama, and await such disposition as may be ordered by a competent court or by the arbitrator. We beg in consequence to say that it will be agreeable to the undersigned if your excellency, who, with the consent of the Japanese government, took charge of the vessel in October, 1872, acting for Peruvian interests, will trouble yourself, in view of the condition of the bark not having been modified since, and do us the service to take measures for selling the Maria Luz at such time and in such manner in conformity with the protocol as in your judgment will be likely to obtain the best price, and will dispose of the proceeds less expenses of sale according to the terms of the agreement, it being understood that this action on your part shall in no case be a cause of any responsibility to the Government of the United States or to yourself.

"We have the honor to assure your excellency of our highest and most distinguished consideration.

"GAIMUSHIO-YU UYENO.
"AURELIO GA. Y GARCIA."

Envoy extraordinary and minister plenipotentiary of Peru in Japan did, in pursuance of such request, give directions to C. A. Fletcher & Co. to sell the bark Maria Luz, with all her appurtenances, by public auction, and same having been purchased by L. Haber, esq., a German subject, do now, in consideration of the sum of Mexican dollars seven thousand two hundred and fifty paid to me by said L. Haber, the whole of the shares in the ship above particularly described.

Further, I covenant with the said L. Haber that I have power to transfer in manner aforesaid the said shares, and that the same are free from encumbrances.

In witness whereof I have hereunto subscribed my name and affixed my seal this —— day of August, one thousand eight hundred and seventy-three.

Executed by the above in presence of—

[Inclosure 11.]

Mr. Garcia to Mr. De Long.

No. 8.] LEGATION DEL PERU.
Yedo, August 8, 1873.

EXCELLENCY: I have had the honor to receive your excellency's dispatch No. 6[illegible] dated the 7th instant, addressed in duplicate to the Gaimusho and this legation, advising us that the bark Maria Luz was sold at public auction on the 1st of August, and

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inclosing the auctioneer's account of sale, Messrs. Walsh, Hall & Co.'s account of expenses of keeping the bark from November 12, 1872, to August 6, 1873, and a draft of bill of sale of the vessel.

Answering your excellency's note, I beg leave to say, in the part that concerns me, that the acts above mentioned being in conformity with the protocol of June 25, 1873, I see no objection to your excellency's proceeding, following your suggestions, if your excellency will please trouble yourself to sign the bill of sale referred to, accept the money from Captain Fletcher as per his account of sales, deliver the bark to the purchaser, pay Messrs. Walsh, Hall & Co. the amount of the account rendered by them, and deposit the residue of the money in a bank for the benefit of the creditors of the vessel. I do myself a duty to express to your excellency my sincere and grateful acknowledgments for your friendly action and for the service that in this matter you have kindly rendered.

Your excellency will please accept the renewed assurances of my highest and most distinguished consideration.

A. GA. Y GARCIA.

[Inclosure 12.—Translation.]

Oyeno Kagenori to Mr. De Long.

FOREIGN OFFICE,
Takei, the 9th of the 8th month of the 6th year of Meiji.

YOUR EXCELLENCY: I have had the honor to receive your excellency's dispatch No. 60, dated the 7th instant, addressed in duplicate, to the Gaimusho and Peruvian legation, advising us that the bark Maria Luz was sold at public auction on the 1st of August, inclosing the auctioneer's account of sale, Messrs. Walsh, Hall & Co.'s account for expenses of keeping the bark from November 12, 1872, to August 6, 1873, and a draft of bill of sale of the vessel.

In answering your excellency's note I beg to say, in the part that concerns me, that the acts above mentioned being in conformity with the protocol of June 25, 1873, I see no objection to your excellency's proceeding, following out your suggestions, if you will please trouble yourself to sign the bill of sale referred to, accept the money from Captain Fletcher as per his account of sales, deliver the bark to the purchaser, pay Messrs. Walsh, Hall & Co. the amount of the account rendered by them, and deposit the residue of the money in a bank for the benefit of the creditors of the vessel. I take pleasure in expressing my sincere and grateful acknowledgments for your friendly action, and for the service that in this matter you have kindly rendered.

Your excellency will please accept the renewed assurances of my highest and most distinguished consideration.

OYENO KAGENORI.

[Inclosure 13, or 1 in 16.]

C. E. De Long, Dr., to the undersigned:

For 100 inventories	$10 00
Cooly hire, discharging provisions	4 00
Advertising in Japan Herald, Gazette, Nishin Shingrshi, 2 weeks	60 00
Commission on $4,250 at 5%	217 50
Total	291 50

E. & O. E.
Rec'd payment,

C. A. FLETCHER & Co.,
Auctioneers.

YOKOHAMA, *August* 11, 1873.

[Inclosure 14, or 2 in 16.]

$2,245$\frac{22}{100}$.

YOKOHAMA, *August* 11, 1873.

Received from C. E. De Long, United States minister, the sum of twenty-two hundred forty-five dollars twenty-two cents Mexican, being disbursements of Peruvian bark Maria Luz.

WALSH, HALL & CO.

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[Inclosure 15, or 3 in 16.]

[From the Hong-Kong and Shanghai Banking Corporation.]

DEAR SIR: I am in receipt of Messrs. Walsh, Hall & Co.'s check for $4,713.28, which I have placed in current deposit account in trust for the creditors of the Maria Luz.

Yours, faithfully,

J. G. HODGSON,
Account Manager.

C. E. DE LONG,
United States Minister.

[Inclosure 16.]

C. E. De Long to Soyeshima Tane-omi, Oyeno Kagenori, and Mr. Garcia.

No. 64.] UNITED STATES LEGATION,
Yokohama, August 12, 1873.

The undersigned has the honor to advise you that on yesterday he signed the bill of sale of the bark Maria Luz, and received from C. A. Fletcher & Co. the proceeds of her sale, less their account of sales, for which please find copy of their receipt, (marked inclosure No. 1,) paid Messrs. Walsh, Hall & Co. the account for expenses of vessel to date, for which please find copy of their receipt (marked inclosure No. 2,) and deposited the balance in the Hong-Kong and Shanghai Bank in trust for the creditors of the bark Maria Luz, as per certificate to that effect, marked inclosure No. 3.

Trusting that in this action he has followed your wishes, the undersigned has the honor to subscribe himself your obedient servant,

C. E. DE LONG.

[Inclosure 17.]

Mr. Garcia to Mr. De Long.

LEGATION DEL PERU,
Yedo, August 14, 1873.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's dispatch No. 64, dated the 12th instant, in which your excellency advises me that on the 11th instant your excellency signed the bill of sale of the bark Maria Luz, received from Messrs. C. A. Fletcher & Co. the proceeds of her sale less their account of sales as per their receipt, paid Messrs. Walsh, Hall & Co. their account of expenses of vessel to date, according to their receipt, and deposited the balance of ($4,713.28) four thousand seven hundred and thirteen Mexican dollars and twenty-eight cents in the Hong-Kong and Shanghai Banking Corporation of Yokohama, as per copy of certificate to that effect, which receipt and certificate have also come to hand.

As your action is entirely in accordance with the protocol of June 25, 1873, signed by the acting minister for foreign affairs of Japan and myself, and with our joint note to your excellency of July 14, 1873, I have only once more to thank your excellency most sincerely in my own name and in the name of my government for the trouple that you have been so kind as to give yourself in this matter, assuring your excellency of my earnest recognition of your services, and of my highest consideration and particular esteem.

AURELIO GA. Y GARCIA.

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[Inclosure 18.—Translation.]

Soyeshima Tane-omi to Mr. De Long.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokei, 20th of the 8th month of 6th year, Meiji.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's dispatch No. 64, dated the 12th instant, in which you advise me that on the 11th you signed the bill of sale of the bark Maria Luz, received from Messrs. Fletcher & Co. the proceeds of her sale, less their account of sales as per their receipt; paid Messrs. Walsh, Hall & Co. their account of expenses of vessel to date according to their receipt, and deposited the balance of ($4,713.28) four thousand seven hundred and thirteen Mexican dollars and twenty-eight cents in the Hong-Kong and Shanghai Banking Corporation of Yokohama, as per copy of certificate to that effect, which receipts and certificate have also come to hand.

As your action is entirely in accordance with the protocol of June 25, 1873, signed by the envoy extraordinary and minister plenipotentiary of Peru, and the acting minister for foreign affairs of Japan, and with their joint note to you of July 14, 1873, I have only once more to thank your excellency most sincerely in my own name and in the name of my government for the trouble that you have been so kind as to give yourself in this matter.

With respect and consideration,

SOYESHIMA TANE OMI.

No. 266.

Mr. De Long to Mr. Fish.

No. 470.] UNITED STATES LEGATION, JAPAN,
September 2, 1873. (Received October 8.)

SIR: I have the honor to forward to you herewith a printed copy of the treaty concluded between Japan and Peru, which was handed to me unofficially by the Peruvian envoy, (inclosure No. 1.)

I remain, &c.,

C. E. DE LONG.

[Inclosure.]

Preliminary treaty of peace, friendship, commerce, and navigation between Peru and Japan.

His Excellency the President of the Republic of Peru and His Majesty the Emperor of Japan, desiring to establish on firm and lasting foundations the relations of peace and friendship now happily existing between the two countries, and to facilitate the commercial intercourse between their respective citizens and subjects, have resolved, with this important object, to conclude a treaty, and have therefore named as their plenipotentiaries, that is to say:

His Excellency the President of Peru, Aurelio Garcia y Garcia, a post captain in the Peruvian navy, and envoy extraordinary and minister plenipotentiary of that republic for the empires of Japan and China; and

His Majesty the Emperor of Japan, Soyeshima Tane-Omi, His Imperial Majesty's minister for foreign affairs;

Who, after having communicated to each other their respective full powers, and found them to be in due and proper form; and whereas in the present year the revision of all the treaties of Japan is to commence, and the Japanese government is desirous to establish with that of Peru the same relations which it maintains with those of other states, thus securing in an efficient manner the interests of both nations until the said revision takes place, have agreed to conclude and sign a preliminary treaty of peace, friendship, commerce, and navigation, and stipulated the following articles:

I. There shall be perpetual peace and friendship between the Republic of Peru and His Majesty the Emperor of Japan, his heirs and successors, and between their respective citizens and subjects, who shall reciprocally enjoy in the territories of the high contracting parties full and perfect protection for their persons and property.

II. His Excellency the President of Peru may appoint a diplomatic agent to reside

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at the capital of the empire, a consul-general, and consuls or consular agents, to reside at any or all the ports and cities of Japan which are now or may hereafter be opened to foreign commerce. All of these officers shall enjoy in Japan the same rights, powers, and privileges as those of the most favored nation. The diplomatic agent of Peru, as well as the consul-general, shall have the right to travel freely in any part of the Japanese Empire.

His Majesty the Emperor of Japan may appoint a diplomatic agent to reside at Lima, a consul-general, and consuls or consular agents at any port or town of Peru, where consular officers of any other power are admitted to reside. All of these officers shall enjoy the same rights and privileges as those of the most favored nation, and shall have the right to travel freely in any part of Peru.

III. All the ports and towns of Japan which are now or may hereafter be opened to the subjects, citizens, or trade of any foreign nation shall, from the day on which this treaty comes into operation, be opened to the citizens of Peru and to their trade. Peruvian citizens may reside in those places, visit the ports with their ships, and trade in them, enjoying the same rights and privileges as those of the most favored nation.

Japanese subjects may reside in any part of the Republic of Peru, may visit with their ships all the ports opened to foreign commerce, and trade in them, enjoying the same rights and privileges which in Peru are granted to the citizens and subjects of the most favored nation.

IV. If any Peruvian vessel be wrecked or stranded on the coasts of Japan, or be compelled to take refuge in any of the ports of its territory, the competent Japanese authorities, on being apprised of the fact, shall immediately render to the vessel all the assistance in their power. The persons on board shall receive friendly treatment, and be furnished, if necessary, with the means of conveyance to the nearest Peruvian consulate.

The same assistance shall be rendered by the maritime authorities of Peru to Japanese vessels that may be wrecked or stranded on the coasts of the republic.

V. The export and import duties which are now in force in the open ports of Japan for the regulations of foreign commerce shall be applicable in the said ports of Japan to the commerce to or from Peru.

No other or higher duties shall be imposed in the ports of Peru on the commerce to or from Japan, than those which are or may be imposed in Peru on the commerce to or from the most favored nation.

VI. It is hereby expressly stipulated that the government, public officers, and citizens of the Republic of Peru shall, from the day on which this treaty comes into operation, participate in all privileges, rights, immunities, jurisdiction, and advantages of every kind which have been granted, or may hereafter be granted, by His Majesty the Emperor of Japan to the government, public officers, citizens, or subjects of any other nation.

In like manner, the government, public officers, and subjects of the Empire of Japan shall enjoy in Peru all the rights, privileges, immunities, and advantages of every kind which in Peru are enjoyed by the government, public officers, citizens, or subjects of the most favored nation.

VII. No restrictions shall be placed by either government upon the employment of their respective citizens or subjects reciprocally, in any lawful capacity. They may go freely from the one country to the other, fulfilling the conditions required by the laws of their respective nations.

VIII. When the revision of the treaties of Japan takes place, the Republic of Peru and the Empire of Japan shall conclude a treaty of amity, commerce, and navigation, and the present preliminary one shall then cease.

IX. The present treaty is written and signed in nine copies, viz, three in Spanish, three in Japanese, and three in English. All these versions have the same meaning and intention; but in case of dispute, the English text shall be considered as the original and decisive one.

X. The present treaty shall be ratified by His Excellency the President of the Republic of Peru, after being approved by the Peruvian Congress, and by His Majesty the Emperor of Japan, and the ratifications shall be exchanged at Tokei, (Yedo,) as soon as possible.

It is also agreed that this treaty shall come into operation from the present date.

In token whereof, the respective plenipotentiaries have signed and sealed this treaty.

Done at Tokei, (Yedo,) this twenty-first day of the month of August, in the year of our Lord one thousand eight hundred and seventy-three, corresponding to the Japanese date the twenty-first day of the eighth month, sixth year of Meiji.

(Signed) AURELIO GARCIA Y GARCIA. [L. S.]
(Signed) SOYESHIMA TANE OMI. [L. S.]

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XXII.—MEXICO.

No. 267.

Mr. Nelson to Mr. Fish.

No. 640.] LEGATION OF THE UNITED STATES,
Mexico, September 20, 1872. (Received October 17.)

SIR: Herewith I inclose the speeches pronounced by President Lerdo de Tejada, (A and B,) and by General Pedro Baranda, president of the Mexican Congress, (C and D,) on the 16th instant, on the occasion of the opening of the sessions of that body.

I have, &c.,

THOMAS H. NELSON.

[Inclosure B.—Translation.]

Address of President Lerdo de Tejada to the Mexican Congress.

OPENING OF SESSION OF CONGRESS.

CITIZEN DEPUTIES: Being designated by the constitution, I took temporary possession of the executive power on the 19th of July last.

An immense misfortune tore from us in a few moments the eminent citizen who for so many years gloriously presided over the nation's destinies. It is unnecessary to eulogize the distinguished merits of the citizen Benito Juarez, or to enumerate his high services.

They are recorded in the most brilliant pages of our history, and are deeply engraved upon our hearts. A grateful nation proclaims them, and I doubt not that its worthy representatives will decree a title of enduring honor to the memory of the author of the reform, and will grant to his family a testimony of the esteem of the Mexican people.

When I took possession of the executive, I considered as the first of my duties that of promoting the election of a constitutional President. This having been decreed by the permanent deputation of Congress, will take place with full and absolute liberty, as is proper, in the solemn act in which the people exercise the most sacred of its rights.

The manifesto which I published on the 27th of July contains the principles which have served and will serve as my rule during the brief period of my administration. They consist merely in the fulfillment of my duties and in the faithful observance of the constitution and laws.

With the decree of amnesty the executive demonstrated his lively desire to see peace reestablished and his just anxiety to give all amplitude to electoral liberty. My satisfaction is great at being able to announce to Congress that peace is already a fact in the republic. Those who fought with arms in their hands have laid them down, recognizing the government, and there only remain a very few insurgents, in the remote States of Sinaloa and Chihuahua, whose speedy submission there are good reasons to expect.

In the strife, which lasted nearly a year, the army has rendered itself worthy of the esteem of the government and of public gratitude for its valor, its discipline, and its loyal decision in favor of our institutions.

The conduct of those citizens who at the call of the government have laid down their arms, restoring peace to their country, is also worthy of applause. These antecedents inspire a grateful hope that we may obtain the greatest of blessings in the union of all Mexicans.

Our relations with friendly powers are maintained in perfect harmony, the executive taking great pains to cultivate them. A representative has recently arrived from the republic of Guatemala, with whose government we are united by ties of sympathy on account of the liberal principles of its administration. Desiring to favor the reciprocal interests of the republic with other nations, the executive is animated by the perfect

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willingness to cultivate friendly relations with all countries which may desire to establish them upon just and convenient bases.

In the use of the faculties granted by Congress, the code of civil procedure has been published, and is now in force. That of criminal procedure will shortly be finished, as well as that of the mercantile code, so necessary for the development of commerce, the abundant fountain of progress and prosperity.

On account of the notorious importance of some of the projects of laws which the executive has presented to Congress, I recommend them to your enlightened consideration, especially the initiations concerning constitutional reforms, the improvement of the system of mortgages, colonization, and the general bases for railroad concessions.

As fast as the re-establishment of peace has permitted, martial law has been raised in several States, replacing in them their constitutional powers. The same step has been delayed only in those States which had no constitutional authorities of their own, or where an inevitable necessity of repressing elements hostile to peace and public order.

The executive has endeavored and will actively endeavor to effect the reductions of expenditure demanded by the condition of the treasury, and to improve, as far as possible, all the branches of the administration. He will especially attend to the strict fulfillment of the laws, thus developing those democratic principles which form the basis of our political organization.

Receive, citizen deputies, my congratulations upon seeing you again assembled, and the expression of my wish that with your patriotism and your wisdom you may in all things labor for the greater good and prosperity of the republic.

[Inclosure D.—Translation.]

Reply of the vice-president of Congress, Pedro Baranda, to the address of President Lerdo de Tejada.

CITIZEN PRESIDENT: The sixth constitutional Congress, on inaugurating its present period of ordinary sessions, considers its first duty, imposed by the justest gratitude, to consecrate a tribute to the memory of the illustrious citizen, President Benito Juarez, whose lamented death, which occurred during the late recess of the legislative chamber, has clothed the republic in mourning. This deplorable misfortune, which might have brought about a dangerous crisis were it not for the proved loyalty of the Mexican people, has dissipated all doubt as to the stability and solidity of our wise institutions, the succession to the first magistracy of the union having been effected quietly and peacefully in accordance with the 79th article of our fundamental code.

We ought to congratulate ourselves that the judicious choice of federal magistrates, made in 1867, designated for this contingency the worthy citizen whose eminent merits were closely connected with those of the illustrious leader who in days of terrible trial grasped the national standard to save the honor and maintain unscathed the independence of our country.

You have directed, citizen President, the first acts of your administration to the manifestation of your sense of the eminent services of that immaculate patriot. It was a praiseworthy task, which the representatives of the nation will second with equal zeal, honoring in some worthy manner the memory of the hero of the reform, and giving to this family proofs of the gratitude of the nation.

The call already issued for the election of the President of the republic will effect the regular and constitutional succession in the first magistracy of the union, installing therein the citizen who may be designated by the free and spontaneous will of the Mexican people.

The national assembly, on hearing you proclaim anew on this august spot the political dogma of the freedom of popular suffrage, could not but rejoice, for it firmly believes that liberty is the only basis upon which the grandeur and happiness of democratic nations can rest.

The decree of amnesty assures the ample exercise of the high right of suffrage, even to those citizens who combated the constituted powers, and has also consolidated the grand conquest of union and concord between Mexicans. The doors of fraternity are opened, and the good citizens who have entered through them, calming the terrible uproar of fratricidal strife, have also opened the doors to the happy future of the republic.

After a prolonged warfare we may congratulate ourselves that our institutions are maintained intact, affording well-founded hopes of their complete consolidation.

This immense boon is due, in great part, to the discipline and *morale* of the army which has given undeniable proofs of adhesion to our constitutional system, and it is also attributable to the policy of conciliation which you have initiated by making a frank summons to the citizens who maintained that armed strife by whose happy conclusion peace has been assured. For the same flattering reason martial law has ceased

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in several States of the federation, and Congress will join its efforts to those of the executive to restore their sovereignty to the few States which now have no constitutional authorities, or wherein the necessity of suppressing the elements hostile to peace and to public order has hitherto prevented such restoration.

Congress also rejoices to learn the satisfactory condition of our diplomatic relations with friendly powers, and the care with which the executive proposes to cultivate them. Congress would see with pleasure the same class of relations established with the countries which may solicit them upon a basis of justice and reciprocal convenience. The analogy of principles which unites us to the neighboring republic of Guatemala renders the more satisfactory the arrival of a representative accredited to our government.

The promulgation of the code of civil and criminal procedure, as well as of the mercantile code, are events which will have a beneficent influence in the improvement of our legislation, which, being in all countries the chain that binds together social interests, its greatest perfection directly affects improvement and prosperity.

Congress will not hesitate to devote itself to the examination and decision of the projects of laws which the executive has presented, giving a deserved preference to those which are of vital importance to the country, such as the reform of our political code, the improvement of our mortgage system, colonization, and public works.

Congress will examine with interest all the proposals of the executive which tend to introduce those reductions of expenditure demanded by the prostrate condition of the treasury, and the necessity of reforming our administration, which constitute, at this time, the great necessity of the republic, since the solution of the political questions which had led to its neglect for so many years.

The promise which you have made to watch over the development of democratic principles through the strict observance of the laws could not be more grateful to a people which has struggled so long for its public system.

As a reward for its constancy and its great sacrifices, our country undoubtedly deserves the inestimable blessings of peace, and with them the moral, social, and material aggrandizement which it should obtain through the public functionaries chosen to guide its progress toward those high ends. The federal Congress is determined, for its own part, to fulfill this sacred duty, and knowing the patriotism and enlightenment of the present executive, it hopes to witness the happy regeneration of the Mexican Republic as the result of the combined efforts of the national powers.

No. 268.

Mr. Nelson to Mr. Fish.

No. 642.] LEGATION OF THE UNITED STATES,
Mexico, September 23, 1872. (Received October 17.)

SIR: Referring to my No. 616, of the 24th ultimo, with which I inclosed a copy of a note, thanking the government of Mexico for the friendly deportment of its military officers on the Rio Grande frontier, I have the honor to inclose a translation of Mr. Lafragua's reply, dated the 19th instant, in which he assures me of the earnest desire of his government to remove all motives of complaint upon that frontier.

I have, &c.,

THOMAS H. NELSON.

[Inclosure.—Translation.]

Mr. Lafragua to Mr. Nelson.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, September 19, 1872.

SIR: I have the pleasure of informing your excellency, in reply to your note dated the 24th ultimo, that this government is gratified to learn that the conduct of its military commanders on the frontier has attracted the attention of the Government of the United States, on account of their satisfactory deportment and the friendly sentiments which they have inspired among the American authorities.

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It is my duty to add that this course of conduct and this friendly deportment toward the United States have been the genuine expression of the sentiments of the supreme government of the republic of Mexico, desirous as it is to prevent all motives of complaint, and to cultivate and foster, in all sincerity, the friendly and cordial relations which happily exist between the two countries.

I improve this opportunity to renew to your excellency the assurance of my very high and distinguished consideration.

J. M. LAFRAGUA.

No. 269.

Mr. Nelson to Mr. Fish.

No. 657.] LEGATION OF THE UNITED STATES,
Mexico, September 30, 1872. (Received October 17.)

SIR: In view of the various representations made by this legation to the Mexican government upon the subject of cattle-stealing on the northern frontier, as well as of the fact that an American commission is now taking testimony on this subject on the Rio Grande, it has been resolved by the Mexican Congress to send a similar commission of three members for the same purpose. The chairman of the said commission is to be Mr. Emilio Velasco, a person of recognized ability and fairness, as well as of special acquaintance with the facts of the case. Several notable articles upon this subject, written by Mr. Velasco, and published in the Siglo XIX, were sent by me to the Department several months since as inclosures to dispatches.

Mr. Velasco has conferred with me repeatedly upon this matter. He is animated by the best desire to establish the truth in this case, and during his mission will place himself in free communication with General McCook and other American authorities.

The other members of the commission have not been appointed, but will be residents of Nuevo Leon or Tamaulipas.

I have, &c.,

THOMAS H. NELSON.

No. 270.

Mr. Nelson to Mr. Fish.

No. 658.] LEGATION OF THE UNITED STATES,
Mexico, September 30, 1872. (Received October 17.)

SIR: The pacification of the republic, which, in former dispatches, I have represented as almost complete, has been recently delayed by grave occurrences in the States of Sinaloa and Chihuahua. In the former, the scattered bands of insurgents, under Colonels Cañedo, Doroteo Lopez, and Fortino Vizcaino, effected a junction and appeared suddenly before Mazatlan, obliging General Flores to capitulate with his small garrison.

Porfirio Diaz, after his unsuccessful attempt to impose conditions upon President Lerdo, made his way to Chihuahua, joining General Donato Guerra, in the capital of that State, which has been held by the insurgents since June last. General Guerra was inclined to accept the amnesty, and had sent General Marquez to treat with the government to that end, but the arrival of Porfirio Diaz prevented his carrying out that intention.

Under date of the 23d instant, General Diaz sent to the government his ultimatum, of which the principal points are the promulgation of a more liberal amnesty, the initiation of a constitutional amendment

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prohibiting the re-election of a President, and further guarantees (not specified) of the freedom of suffrage. President Lerdo telegraphed in reply that the only concession he could make would be to consider Diaz and his forces comprehended in the amnesty of the 27th of July last, which expired more than a month since.

In anticipation of the refusal of Diaz, General Rocha has been ordered to march from Monterey against Chihuahua, and General Caballos has moved from Durango against Mazatlan.

I have, &c.,

THOMAS H. NELSON.

No. 271.

Mr. Bliss to Mr. Fish.

No. 672.] LEGATION OF THE UNITED STATES,
Mexico, October 31, 1872. (Received November 14.)

SIR: The secondary election of President of the republic, which took place on the 27th instant, resulted in the almost unanimous choice of Mr. Lerdo. General Diaz received but a single electoral vote in this city, and but a few dozen in the entire republic. His submission to the government, accepting the terms of the amnesty of the 27th of July last, was officially announced on the day of the election, and he will soon present himself in this city.

The steamer Guatemala, of the Panama line of coasting-steamers, was wrecked on the 13th instant, on the bar of Tonala, in the State of Chiapas. Twenty-three lives were lost and the sum of $300,000.

The frontier commission mentioned in dispatch No. 657 has been formed by the appointment of Messrs. Emilio Velasco, of this city, Mr. Ignacio Galindo, of Nuevo Leon, and Mr. Antonio Garcia Carrillo, of Coahuila, with Mr. Agustin Siliceo as secretary. Messrs. Velasco and Siliceo left this city on the 26th instant for Matamoros.

I have, &c.,

PORTER C. BLISS.

No. 272.

Mr. Bliss to Mr. Fish.

No. 683.] LEGATION OF THE UNITED STATES,
Mexico, December 3, 1872. (Received December 18.)

SIR: The great events of the past month have been the declaration of the election of Mr. Lerdo to the presidency, and his inauguration on the 1st instant, which form the subject of a separate dispatch. The unanimity with which Mr. Lerdo has been chosen is without a precedent in Mexican annals, and the nation now entertains the brightest hopes of the preservation of peace and the consequent immense development of the resources of the country.

General Porfirio Diaz arrived in this capital on the 17th ultimo, from Chihuahua. He is living in the closest retirement, and is indisposed to take any further part in politics.

Congress has issued a summons for the election of a chief justice and two associate justices of the supreme court, on the second and fourth

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Sundays of February next. The contest for the first-named post, which is virtually the vice-presidency of the republic, has already commenced, and will be severe. The candidates so far are Generals Miguel Auza and Vicente Riva Palacio, and Mr. José Maria Iglesias, all of whom are friends of Mr. Lerdo.

The railway project of General Rosecrans was on the 29th ultimo, after a long and exhausting debate of two months, submitted to President Lerdo, with power to negotiate with that gentleman, subject to the ratification of Congress.

I am, &c.,

PORTER C. BLISS.

No. 273.

Mr. Bliss to Mr. Fish.

No. 684.] LEGATION OF THE UNITED STATES.

Mexico, December 7, 1872. (Received January 14, 1873.)

SIR: Herewith I inclose copies and translations (A and B) of the message pronounced before Congress by President Lerdo, at his inauguration on the 1st instant, and of the reply made to the same (C and D) by the Hon. Nicolas Lemus, president of the Mexican Congress.

I am, &c.,

PORTER C. BLISS.

[Inclosure B.—Translation.]

SPEECH OF PRESIDENT LERDO TO THE MEXICAN CONGRESS, AT HIS INAUGURATION, ON DECEMBER 1, 1872.

CITIZEN DEPUTIES: The protest I have now come to make, to observe and enforce the constitution and laws, is not merely a legal solemnity; it is the very sincere expression of my sentiments, and the sacred pledge I make to the republic to correspond, as far as depends on me, to the immense proof of confidence with which the free votes of my fellow-citizens have honored me.

The fidelity with which I have complied with the promises I made on the 27th of July, when, in consequence of a misfortune so justly lamented, I began to exercise, by virtue of the law, the executive power of the union, may serve as a guarantee of the promises I now make. During the provisional period which terminates to-day, the loyal observance of the constitution, the care for the best order in all the branches of public administration, the enjoyment of individual guarantees, the perfect freedom of election and of the press, and the respect for all rights, all opinions, and for all the liberties of the citizens, have been indisputable facts.

Happily, the government's desire to realize, under the protection of the law, the union of the Mexicans, has not been fruitless. I feel an inexplicable satisfaction at being able to say that the civil war is ended, and that confidence has returned, by which peace will be consolidated. These priceless benefits are not due only to the frank policy of the government, but chiefly to the patriotism of the citizens, without whose efficient co-operation all my efforts would have been vain.

The republic being now quiet, and counting, as it should, upon the enlightenment and wisdom of the legislative body, upon the impartial rectitude of the judiciary, and the great desire of the executive power to comply with its duties, great hopes may be entertained that, during the new administrative period, the rich elements inclosed in the bosom of our country will be developed, the Mexican people acquiring, after such long years of struggle, social improvement in all its branches, the fruits of liberty, reform, and of the democratic principles on which our institutions are based. With the intimate conviction of my duties, I shall always esteem as preferent objects of the government the good and prompt administration of justice, order, and morality in the administration, the inviolable respect to all the individual guarantees and to prop-

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erty, the constant effort to maintain public security, the greatest development of the education of the people, and all possible protection to commerce, industry, and agriculture, as the sources of social wealth and prosperity.

To comply with these intentions I shall endeavor to deserve the support of public opinion, counting on the patriotism of all good citizens and the discipline and intelligence of the army, which, drawn from the people, has known how to be the guardian of the laws, and has made itself worthy of the esteem of all Mexicans.

To preserve the most perfect harmony between the union and the States will be, in the interior, the principal object of my administration, as it shall also be in foreign affairs to cultivate the good relations which unite us to friendly powers, being disposed to re-establish them with other nations that may desire it by means of new treaties, in which, on just and convenient bases, all the rights and interests of the republic may be preserved.

I beg of you, citizen deputies, to be interpreters to your constituents of the sentiments of my cordial gratitude for the inestimable confidence they have placed in me, raising me to a post of as much honor as responsibility. All my energy and all my efforts shall be so directed that at the end of my period of administration I may contemplate the republic enjoying, in perfect peace, all the benefits procured by liberty, guaranteed by law, developed by intelligence, and preserved by the patriotism of the people.

[Inclosure D.—Translation.]

SPEECH OF THE PRESIDENT OF THE MEXICAN CONGRESS, MR. NICOLAS LEMUS, AT THE INAUGURATION OF PRESIDENT LERDO, ON DECEMBER 1, 1872.

CITIZEN PRESIDENT: The Congress of the union believes that the protest you have just made, to fill loyally and patriotically the post of first magistrate of the republic, is, in fact, the sincere expression of your sentiments; it duly appreciates the immense confidence placed in you by the people by means of the suffrage of October, and hopes, from your loyalty and enlightenment, that all the acts of the executive power, which you begin to discharge at this date, will be directed to the fulfillment of the law and the prosperity of the nation.

The interim that was caused in the presidency of the republic by the death of Mr. Juarez ends to-day. You have fulfilled, in fact, the promises of your transitory government, and the people for this reason have named you for the definite post of constitutional President. Congress trust in your being able in future to give a complete development to your programme, observing faithfully, as you have done in the provisional government, the precepts of the constitution; for the republic, which has shed much blood in its cause, resolutely desires the absolute establishment of the institutions that govern us. Our fellow-citizens, anxious for the aggrandizement of the country, will know how to correspond worthily to your noble efforts as they have done hitherto.

The responsibility you have contracted, citizen President, is immense; the nation, still agitated by the recent struggle, expects from your prudent measures the consolidation of a profound and lasting peace; it expects from your energy the reformation of a vicious and demoralized administration; from your talent, wise measures to develop our industry, and bring to light the wealth hidden in our soil; it expects, in short, from your love to your country, instruction for the ignorant, work for the poor, and prosperity for all Mexicans. To sum up, the nation that, from continuous misfortune, had doubted its destiny, rises now from its prostration, confides to you its future, and begins to believe in its own welfare.

You succeed a colossus, who agitated the republic, and knew how to raise it to the level of contemporaneous civilization; the incomparable firmness of his principles and the decided abnegation of his patriotism have won him already the best pages of our annals; but you have to destroy nothing; your mission is one of peace, morality, and reconstruction; you should, for this reason, as you have just promised, give your attention to agriculture, commerce, and industry, to the education of the people, the proper management of the public funds, the proper administration of justice, and, above all, to the solid establishment of peace and public security.

Congress acknowledges that through your prestige the public credit has begun to spring up again, that the prudent measures of the provisional administration re-established harmony between the governments of the States and the government of the federation, and that they have served to maintain the good relations which bind us with some foreign powers, manifesting thus to the world that Mexico is disposed to enter on just and equitable grounds into treaties with all nations.

Citizen President, you are now the first of the Mexicans, the father of the country; but Congress is assured that in future you will also be the firmest support of the nation, the effective cause of its prosperity, and the faithful guardian of its institutions.

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No. 274.

Mr. Bliss to Mr. Fish.

No. 685.] LEGATION OF THE UNITED STATES,
Mexico, December 7, 1872. (Received January 14, 1873.)

SIR: I inclose herewith a printed copy and translation (A and B) of the address of congratulation, made on the 2d instant in behalf of the diplomatic corps, by the Spanish minister, Mr. Herreros de Tejada, on occasion of the inauguration of Mr. Lerdo, and of the reply of the President to the same.

I am, &c.,

PORTER C. BLISS.

[Inclosure B.—Translation.]

CONGRATULATIONS OF THE DIPLOMATIC CORPS TO THE PRESIDENT OF MEXICO.

The diplomatic corps presented itself yesterday at 1 p. m. to congratulate Mr. Lerdo. The minister of Spain, in the name of his companions, said:

EXCELLENT SIR: The foreign diplomatic corps, that united with your excellency a few months ago in lamenting the affecting loss of the eminent republican who was suddenly snatched from among his fellow-citizens, and who left as a precious legacy the tranquil exercise of the law, comes to-day to congratulate you on the honorable testimony of esteem and confidence which you have just received from the Mexican people, elevating you more than by election, by acclamation, to the supreme post that you occupied yesterday, by the creditable and serene ministry of the constitution.

The country is confident that, by the impulse of your enlightened and discreet administration, and by the peace that happily is commencing, it will rise from its present prostration; and the diplomatic corps, fervently and sincerely desiring the realization of the sanguine hopes entertained by the country, complies now with the duty of friendship, by expressing its hearty and loyal desires that the United States of Mexico, entering into the harmonious intercourse with all nationalities, may win among them the rank, the respect, and the consideration to which it has a right, as a free people, a people of culture, and on account of its abundant although unexplored elements, and the hospitable character of its sons; that by this means and the blessings of peace, and the guarantees offered by the administration of justice, the republic may find a natural reciprocalness of interests in emigration, and the aid that foreign capital can lend to the development of the national industries.

A manifestation so much the more proper and sincere on our part when, perhaps at this moment, the Mexican people, through their legitimate representatives in the Congress of the union, respond to the initiative of your government to authorize the executive power, in order to duly correspond to friendly nations, to appoint diplomatic representatives near those governments that have them accredited to this; which act, being ostensibly a proof of a cordial understanding and reciprocal friendship, will necessarily influence efficaciously in the realization of the desires for the prosperity of Mexico, and the consolidation of the interests of all the peoples already expressed.

Your advent to the first magistracy of the nation has been, excellent sir, the inauguration of an era of peace; the country designates you not only as the personification of its hopes, but as a symbol of its future welfare. May God, who has protected with his favor your provisional steps to power, illuminate your privileged intellect and assist your efforts, that, utilizing the blessings of labor that will be obtained by peace, and the observance of the laws that protect and guarantee it, and securing friendly relations and social fraternity at home and abroad, necessary to the life of civilized peoples, you may give assured independence, and that prosperity and aggrandizement to which your beautiful country legitimately aspires.

REPLY OF PRESIDENT LERDO.

GENTLEMEN: With true esteem and sincere gratitude I receive the expression of the benevolent sentiments that the diplomatic corps has been pleased to manifest to me.

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The vote of my fellow-citizens honors me excessively; but also imposes on me sacred duties. One of the most interesting, and one that will be pleasant to fulfill, is the maintenance of the friendly relations which unite the republic of Mexico with those foreign nations which you so worthily represent; because, in effect, it is of great interest among nations to live not only in harmony, but in friendly union, for the object of aiding in the great work of extending the limits of civilization.

The initiative that the government has sent to the national Congress to establish legations in Spain, in the German Empire, and in Guatemala, will prove to you its desire to strengthen the relations, by means of Mexican representatives, who will take to those governments the sincere expression of the sentiments that animate the people of Mexico.

One of the principal duties of the government is to develop the great material and moral elements inclosed within the republic; and I will comply with it with the more zeal when the objects to which it leads are not only of notorious interest to internal improvement, but of great importance in cultivating foreign relations and in the encouragement of emigration.

I beg you again, Messrs. Ministers, to accept my just acknowledgment, which is the more sincere when in the fulfillment of your high duties you have shown yourselves personally animated toward the government of the republic by the most cordial sentiments, which, without any doubt whatever, are reciprocated by the society of Mexico.

No. 275.

Mr. Bliss to Mr. Fish.

No. 686.] LEGATION OF THE UNITED STATES,
Mexico, December 14, 1872. (Rec'd Jan. 14, 1873.)

SIR: I inclose herewith a printed copy (A) and a translation (B) of a set of regulations published at Matamoras by the commission appointed by the Mexican government to investigate into the outrages committed on the northern frontier.

I am, &c.,

PORTER C. BLISS.

[Inclosure B.—Translation.]

COMMISSION OF INVESTIGATION ON THE NORTHERN FRONTIER.

Regulations published at Matamoras by the commission appointed by the Mexican government to investigate the outrages committed on the northern frontier.

The executive of the union, authorized by the law of the 30th of September last, named the undersigned to form a commission to investigate the facts as regards the damages complained of by the citizens of the United States, and those caused by them to the Mexican citizens in the States of Tamaulipas, Nuevo Leon, and Coahuila, whether through depredations by Indians, cattle-stealing, or through any other outrages upon persons or property; consequently, the commission will hear all the complaints presented in conformity to the following regulations:

1. The persons who, in Mexican territory, may have undergone, since the 2d of February, 1848, any outrage upon their persons or property, of whatever kind it may be, if caused by invasions or incursions of individuals proceeding from territory of the United States, or by individuals who at the time of committing the outrages resided in Mexican territory and then found refuge in territory of the United States, will present their complaints before this commission.

2. The presentation of the complaints will be made through a document on paper of the fifth seal, which will be delivered to the secretary of the commission, or verbally by the interested party appearing before the said commission.

3. In either case the following items must be stated:

I. The name and surname of the claimant or claimants; his abode at the time when the incident or incidents that cause the complaint took place; his present abode; his

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nationality; the exact or approximate place, as near as possible, where the said incidents took place; a brief narration of the fact and its circumstances, without comments of any sort; and whether the claim has or not been presented before the mixed commission in Washington.

II. The kind, quantity, quality, and value of the property lost, robbed, or destroyed by any of the causes expressed in regulation 1. Should the complaints be caused by any assault on the person, the compensation called for will be expressed in a specified amount of money.

III. The names and surnames of the perpetrators of the damage, should they be known, and their place of residence at the time when the incidents complained of took place. Should these conditions not be known, the reason or reasons for believing the damage to be caused by persons residing in the United States, or by persons who, residing in Mexican territory, found refuge in territory of the United States, must be stated.

IV. Should the stolen property have been taken to the United States, the conditions of this fact will be stated, in so far as known by the claimants; it will also be stated whether the latter made any demand or claim, or asked any kind of help from any authority of the United States, with the object of recovering his property; whether the stolen property was returned; the difficulties he may have had to obtain restitution, or the reasons given by the authority for not making it.

V. Should the property stolen in Mexican territory have been transferred to the United States and there sold, the name and surname of the person who purchased them must be stated; as also the price they were sold for, the place or places the buyers took them, and the other circumstances in so far as known to the claimants.

VI. Should the persons accused of the acts which cause the complaint have found protection in the territory of the United States, the sort of protection given to them must be stated; as also by whom, and whether the persons who protected the accused were authorities at the time they gave that protection, or whether they have been before or afterward, mentioning at least the public post or posts they may have at any time occupied in the United States.

4. The claimants may offer their proofs, either in writing at the time of presenting their complaint, or by writing presented at any time, even after their first representation, or verbally by appearing in person.

5. Should the evidence be documentary, it will be presented before the commission, or the latter will be informed of the archives where the instruments may be found, so that the commission may call for the copies or certificates they may deem necessary.

6. Should the evidence be by production of witnesses, the claimant will bring them before the commission, either with a written interrogatory, or explaining verbally to the said commission the points he wants to prove, so that the witnesses may be questioned on them.

There must be at least three in each case.

7. Should any witness refuse to appear, the claimant will inform the commission thereof, that it may issue a formal citation and compel the witness to appear.

8. The heirs or representatives of persons who may have suffered damages of the kind mentioned in regulation 1, have, according to law, a right to present their complaints.

NOTES.

1. The object of the commission being to form a complete judgment upon the matter, having as a rule of its conduct the most complete impartiality, and being guided only by the principles of strict justice, it invites persons residing in territory of the United States, or who have property there and believe they have a right to complain of robberies or depredations committed by bands organized in Mexican territory, to present their claims before the commission with the necessary proofs.

2. Residents in Mexican territory are requested to lend their aid to the commission, so that the latter may have all the means and facilities necessary to comply with its instructions and prepare the means to redress the evils alleged to have been committed on both frontiers and prevent them in the future.

The office of the commission is open every day, excepting feast days, from 10 a. m. till 4 p. m., in the house situated at the corner of Six and Morelos streets, known as the new house of Mr. Pedro José de la Garzá.

Heroico, Matamoros, November 21, 1872.

EMILIO VELASCO.
ANTONIO GARCIA CARRILLO.
AGUSTIN SILICEO, *Secretary.*

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No. 276.

Mr. Bliss to Mr. Fish.

No. 687.] LEGATION OF THE UNITED STATES,
Mexico, December 17, 1872. (Rec'd Jan. 14, 1873.)

SIR: I inclose herewith a printed copy (A) and a translation (B) of the speech of President Lerdo at the closing of sessions of the Mexican Congress, on the 15th instant, and of the reply (C and D) made by Mr. Nicolas Lemus, president of Congress.

I am, &c.,

PORTER C. BLISS.

[Inclosure B.—Translation.]

Speech of President Lerdo at the closing of sessions of the Congress of the Mexican Republic on December 15, 1872.

CITIZEN DEPUTIES: The provisions of the constitution suspend to-day your legislative tasks, which have really been beneficial to the republic.

The establishment of legations in Spain, Germany, and Guatemala, being decreed by Congress, they will efficaciously preserve and strengthen the friendly relations which unite us to those powers. This will be to the advantage of commerce, and to the furtherance of immigration, so useful to our country, by the augmentation of productive hands and by the easier development of all the branches of public wealth.

The formation of commissions to examine into the motives of complaint there may be on the northern frontier, especially on that bounded by the Rio Bravo, is of great importance to sustain the interests of the republic, as also to avoid any occasion for international difficulties, which governments should provide against so as to prevent the disturbance of harmony, so necessary for the happiness of nations.

In view of the result of the last elections, you have not only legally constituted the executive of the union, but, by convoking the people to the election of the president of the supreme court of justice, you have provided for the eventuality foreseen and remedied by our fundamental compact.

The law for prudently extending the municipal revenue of the city of Mexico to the towns in the federal district is a new proof of the interest Congress has for this important part of our society, which so justly deserves the esteem and special care of the authorities of the union. Great benefits will also be produced by the resolution to apply the same arrangement to Lower California, where the still unexplored elements inclose fruitful germs of prosperity.

The scarcity of our resources, and the necessity of covering the public expenses, obliged the executive to ask for new means to cover deficiencies. For the confidence with which Congress authorized the executive to provide them I should express my profound gratitude, and assure it that the faculties granted will be scrupulously employed solely to procure the resources necessary to satisfy the most indispensable demands on the public coffers.

Complying with constitutional provisions, the executive yesterday presented the estimate of the appropriations for the next fiscal year, so that Congress may dedicate to it the special attention it deserves at the next period of sessions.

Public works have justly been a preferent object of the consideration of Congress, because the nation expects from them the most complete development of its great elements of wealth. The dispositions dictated, to continue the works on some roads, and to extend the telegraphic lines, which already cover a great part of our extensive territory, will be very profitable.

The executive, in making use of the authorization relative to new railway projects, will hear all the propositions and examine all the conditions, and, weighing the advantages and difficulties, will submit to Congress the projects it may consider most useful to the national welfare. If, as we ought to hope, we continue enjoying the invaluable benefits of peace, Congress will be able during the next period of sessions to tranquilly dedicate its diligent solicitude to these and other important affairs.

Receive my just congratulation, citizen deputies, because you can retire with the conviction that during the period which now terminates you have complied, with the most noble and patriotic zeal, with the high mission confided to you by the republic.

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[Inclosure D.—Translation.]

Speech of the president of the Mexican Congress, Mr. Nicholas Lemus, at the closing of sessions on December 15, 1872.

CITIZEN PRESIDENT OF THE REPUBLIC: The opening and closing of the sessions of Congress on the days and in the terms provided by our fundamental code do not lack, in a country generally so agitated as ours, a favorable signification; such regularity is at least a good symptom that no serious disorder disturbs the natural functions of the body-politic, and it strengthens at home and abroad the confidence that public tranquillity and national institutions are being consolidated.

As you have just manifested, Congress during the period that terminates to-day has dedicated itself diligently and loyally to the examination and solution of various questions that demanded it with most urgency.

The establishment of diplomatic missions in Spain, Germany, and Guatemala was a measure demanded not only by the reciprocity of courtesy towards those governments which had accredited representatives near our own, but also by the mutual interest of the respective countries and of the republic. Congress has demonstrated by this act that it is disposed to consent to renew and strengthen, with other powers that may solicit it, the relations unfortunately interrupted, thus conciliating the dignity of the nation with the demands of modern international civilization.

The formation of commissions to examine the motives of complaint there may be on the northern frontier against our neighbors on the other side of the Rio Bravo, and theirs against Mexico, is of such importance, that, understood by Congress, it passed the law of the 30th of September last. Congress trusts, as you do, that these precautionary and pacific measures, inspired by good faith, will prevent grave conflicts between the two nations.

No less important was the declaration of this chamber that elevated you to the first magistracy of the country, and the law that convoked the Mexican people to the election of a president of the supreme court of justice. The first was the indispensable complement of the elections of October, and the second is also of great transcendency. The prerogative being allowed by our code of 1857 to the president of the court to substitute the President of the republic in his temporary or absolute absence, the edict issued has made the danger of the want of a head of the executive power of the union more remote.

Every legislative measure that causes an outlay from the public funds, or imposes a sacrifice upon the citizens, must necessarily cause another sacrifice to Congress, whose greatest desire is to lighten the burdens that weigh on the several social classes. The national representation, compelled by urgent circumstances to issue the law of the 10th instant, which authorized the executive to procure resources upon certain bases, has given you an unmistakable proof of confidence, trusting in your rectitude and your zeal for remedying public evils.

Congress has, with justice, dedicated a preferent part of its attention to material improvements, because they have caused a beneficent and tranquil revolution in the civilized world, and also because they, on account of circumstances special to Mexico, will perhaps be the only practical method of carrying out social reform and the consolidation of the political institutions of our country. It has been able, notwithstanding, to prudently restrain its ardor, and authorized you to arrange the preliminary bases of the construction of railways, which you must submit afterward to its approbation. This prudent measure will not be fruitless. The information of the executive and the new study that may be made in this chamber of the concessions solicited will be a double guarantee that the country will neither enter into compromises it cannot comply with, nor will it at a later day have to submit to painful sacrifices to redeem its promises and save the national honor at stake.

Congress has already passed to the respective commissions the estimates of the next fiscal year, presented to it by the executive in compliance with a constitutional provision. In them this chamber will certainly introduce all those economies that may appear compatible with good public service.

Congress feels great satisfaction at hearing from your mouth almost an assurance that peace will continue, imparting to us its invaluable benefits. It will be a happy day for Mexico, citizen President, when we can say with truth that peace is assured: a happy day that in which the people may be convinced, as it appears they begin to understand, that revolutions only produce good results when they have grand principles to conquer. If they do not lead to that, they may correct present vices of more or less importance, but in exchange they sow in their passage infinite germs of new vices, the bitter harvest of which will continue to be gathered by future generations. In presence of the dangers and fears of a revolution that devastates everything, the great mass of the people rallies around the constituted authorities; it overlooks and excuses its errors and faults, which are thus perpetuated. When, on the contrary, peace reigns, when neither faults nor errors can find justification, either the bad governor

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returns to the path of legality, or he falls, overwhelmed by public scorn and universal execration.

Congress does not foster the presumption of having satisfied, in the period that ends to-day, all public necessities. The large number, the various kinds and importance of the affairs submitted to its deliberation, and the natural delays of every corporate body are the real cause of the scanty results of its legislative tasks. Congress protests, notwithstanding, before the whole nation, that during its next session it will not be wanting in patriotism, nor will it flag in its zeal for the common welfare.

Congress, for which I speak in these solemn moments, citizen President, cordially and sincerely wishes that, before giving up your post to a person newly elected by the people, all those questions on which depend the private interests of the citizens, the tranquillity of the States, and the general prosperity of the republic, may find a just and proper solution.

No. 277.

Mr. Fish to Mr. Nelson.

No. 311.] DEPARTMENT OF STATE,
Washington, January 16, 1873.

SIR: I transmit for your information a copy of a dispatch of the 26th of December last, addressed to this Department by Mr. Schuchardt, the commercial agent at Piedras Negras, relative to predatory incursions of Indians from Mexico into this country.

The federal government of that republic appears to be so apathetic on this subject, or so powerless to prevent such raids, that sooner or later this Government will have no other alternative than to endeavor to secure quiet on the frontier by seeking the marauders and punishing them in their haunts, wherever these may be. Of course we should prefer that this should be done with the consent, if not with the co-operation, of Mexico. It is certain, however, that if the grievance shall be persisted in the remedy adverted to will not remain untried. It is not, however, expected that for the present, at least, you will make a formal representation to that government to this effect.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

Mr. Schuchardt to Mr. Fish.

No. 94.] COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
Piedras Negras, December 26, 1872. (Received Jan. 14, 1873.)

SIR: I have the honor to acknowledge the receipt on the 25th of December of your dispatch No. 35, dated November 2, 1872, relative to the immigration of hostile Indians from the United States to Mexico, and the views of the honorable Secretary of the Interior on this subject. Said dispatch was directed via Santa Fé, N. Mex., which accounts for its delay on the road.

A short time after I wrote my No. 87, dated September 1, 1872, this State (Coahuila) has returned to her constitutional condition, and the office of gefe politico is abolished. The gefe politico of this district, who at the time treated with those Indians, has since retired to private life, and there the question about their admittance into this country rests. The actual government of this State, it seems, has not taken any notice of the matter, as I am not aware of any measures taken by it to prevent the Indians from coming, or to compel them to leave the country, or to move farther to the interior of it.

The apprehension expressed by the honorable Secretary of the Interior that these Indians desire to go into the States adjacent to the United States for the purpose of establishing a city of refuge, to which they can flee after committing depredations

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and outrages upon citizens of the United States, has already proven well founded. A month ago a party of these very same Lepans and Comanches (as such they were recognized) made a foray on Texas, swept the country east and north of Laredo clean of horses, took some cattle, and also captured several boys, of which one escaped; after this they recrossed to Mexican territory and encamped on a place called "Los Arboles," whence they came to the Mexican town "El Remolino" to dispose of their plunder.

It is the custom of the country that, by direction of the government, the horses of the Indians are from time to time branded with the brand of the corporation, and thus declared good and transferable property, and then they can be bought by anybody.

The Indians, after a raid, once on this side of the Rio Grande, feel secure, knowing very well that they cannot be pursued by our troops across the line. The Mexican government, who is not disposed or is too weak itself to prevent the raiding of the Indians into the United States territory, at least should not object to the crossing of our troops when pursuing them into their places of refuge in Mexico. The Indians once knowing that the Rio Grande is not any longer an impediment to our troops to keep on the pursuit, even across the river, they very soon would agree to go to a reservation; and as they know well that they cannot expect much from the Mexican government, they probably would surrender to the United States. As it is now, it seems natural that the Mexican government is responsible for what depredations the Indians, harbored in this country, commit in Texas.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

No. 278.

Mr. Fish to Mr. Nelson.

No. 313.] DEPARTMENT OF STATE,
Washington, January 22, 1873.

SIR: I transmit a copy of a communication of the 18th instant, addressed to this Department by the Secretary of the Navy. It relates to the exaction of a charge on the alleged exportation of specie from Mexican ports for current expenses of United States men-of-war. The duty on the exportation of bullion has for many years been levied in Mexico, but it has hitherto been understood to have been required only when the specie was going to foreign countries as freight. Though Mr. Mejia represents in his report that there is no precedent for the exemption, and that the general law applies to this particular case, it is apprehended that he must be mistaken in both particulars. This is believed to be the first instance in which any complaint on the subject has been made known to this Department, and it is not easy to see how an intelligent judge would construe as an exportation the act of placing an article on board of a man-of-war in a port for the purpose, in the main, of enabling the vessel to purchase supplies in that very port.

It is hoped that you may be able to induce the Mexican government to recede from its decision in this matter. If, however, it should be persisted in, you will give them to understand that it is expected that the law will be impartially executed, and that if the exemption is granted to the men-of-war of any foreign nation, it will, pursuant to the treaty, be required for those of the United States.

I am, &c.,

HAMILTON FISH.

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No. 279.

Mr. Fish to Mr. Nelson.

No. 314.] DEPARTMENT OF STATE,
Washington, January 22, 1873.

SIR: I transmit for your information a copy of a communication of the 17th instant, addressed to this Department by the Secretary of War, relative to a recent raid into Texas by cattle-thieves from Mexico. You will take occasion to mention the subject to the minister for foreign affairs, and to point out the expediency on the part of the Mexican authorities of endeavoring to check such depredations. If this should not soon be done, the exasperation of the immediate sufferers will inevitably extend to the rest of their countrymen, and retaliation will be demanded in a tone which it may be difficult to resist.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

Mr. Belknap to Mr. Fish.

WAR DEPARTMENT,
Washington, January 17, 1873.

SIR: I have had prepared, and transmit herewith, for your information, a copy of a recent report from the Department of Texas, of depredations upon stock in Texas by Mexican cattle-thieves.

Very respectfully, &c.,

WM. W. BELKNAP,
Secretary of War.

HEADQUARTERS RINGGOLD BARRACKS, TEXAS,
December 10, 1872.

ACTING ASSISTANT ADJUTANT-GENERAL, *Department of Texas:*

SIR: I have the honor to report that, on the 6th instant, information was brought me by Mr. Victor Morel, post-guide, that a party of Mexican cattle-thieves had stolen a large number of cattle from the stock-range and ranches in this vicinity, and would endeavor to cross them into Mexico. Thinking he could capture them, I furnished Mr. Morel with a detachment from B Company, Ninth U. S. Cavalry, Lance-Sergt. George Bruce, Corporal Jacob Hicks, and four privates. Leaving the post at about 7.30 o'clock p. m., on the 6th, the detachment proceeded in a westerly direction toward the Guadalupe ranche, in the vicinity of which it was expected to come upon the thieves, with the stolen herd. Marching until about 2 o'clock a. m. on the 7th, our party went into camp until daylight, when they resumed their march. At about 7 a. m., near the Rio Grande, they came upon the party, who had left the road, and with the stolen herd were moving across the country in the direction of the river. They had halted, and, with their horses saddled, were cooking breakfast. They numbered eleven men. Immediately on coming in sight of the party, Mr. Morel, with his escort, charged upon the thieves, who, springing upon their horses, "broke" for the chaparral, after exchanging a few shots. The horse of the leader of the gang, with saddle, bridle, blankets, and ammunition, was captured. This horse is the property of Julio Hinojose, a citizen of Comargo, Mexico, known to have been the leader of the party of thieves. Pursuit was made through the chaparral, by our party, but being in a dense thicket, the Mexicans, being naturally superior bushmen, succeeded in escaping. Our party then turned their attention to the herd. Fifty-nine head of cattle were recaptured. The whole herd might possibly number one hundred and fifty head.

During the time the firing was being done, quite a number stampeded and were lost in the heavy bottoms and thickets.

The party then returned to this post, bringing the fifty-nine head of stock and the horse and equipments of the leader. They arrived here on the eve of the 7th, having in the

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twenty-four hours marched over sixty miles of very rough country, with very little or no grass and no water. The captured stock was turned over to the civil authorities of Rio Grande City; copy of receipt inclosed. It is probable that the remainder of this herd were eventually crossed or found their way to Mexico. I inclose a copy of a letter sent yesterday to the authorities at Comargo. The success of this expedition is largely due to the intelligence, discretion, and coolness of Mr. Morel. Too much credit, also, cannot be given the detachment of soldiers, particularly Lance-Sergeant Bruce and Corporal Wicks. They seconded Mr. Morel in every way, and during the fire were prudent and cool. Had they been as skilled as are these Mexican thieves in bushwhacking, the whole party of thieves would have been captured.

Very respectfully, your obedient servant,

ANDREW SHERIDAN,
Captain 24th Infantry, commanding post.

RIO GRANDE CITY, *December* 7, 1872.

Received of Victor Morel, for Captain A. Sheridan, fifty-nine (59) burros, captured from cattle-thieves.

J. E. MARTIN,
Sheriff Starr Co.

HEADQUARTERS RINGGOLD BARRACKS, TEXAS,
December 9, 1872.

THE AYUNTAMIENTA, *Comargo, Mexico:*

I have the honor to call your attention to the following facts: Within the last three days a large herd of cattle, stolen from ranches and from the stock-range in this vicinity, has been crossed into the republic of Mexico by thieves from your side of the river. A party sent from here succeeded in recapturing sixty head of cattle, but were not able to get any of the thieves. One horse, said to be the property of Julio Hinojosa, a citizen of Comargo, Mexico, was captured, with saddle and bridle, and is now in possession of the authorities on this side the river.

One hundred and fifty head of cattle, I am informed from reliable authority, were crossed some fifteen miles below here, and are now in Mexico.

I submit these facts for the consideration of the authorities in Mexico, with a view that something may be done to bring these thieves to justice, and that the cattle may, if possible, be returned, as we propose and are doing all in our power to prevent these depredations.

I ask that our exertions may be seconded in some way by the authorities of Mexico.

Very respectfully, your obedient servant,

ANDREW SHERIDAN,
Captain 24th Infantry, U. S. A., commanding post.

[Indorsements.]

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, December 24, 1872.

Respectfully forwarded to the headquarters Military Division of the Missouri, for the information of the Lieutenant-General commanding.

C. C. AUGUR,
Brigadier-General, U. S. Army.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, January 3, 1873.

The especial attention of the Government has been so frequently called to the depredations of Mexicans on the frontier of Texas, that the undersigned simply submits these additional facts.

P. H. SHERIDAN,
Lieutenant-General commanding.

HEADQUARTERS OF THE ARMY,
Washington, December 7, 1873.

Respectfully submitted to the Secretary of War.

W. T. SHERMAN,
General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 15, 1873.

Official copies:

E. D. TOWNSEND,
Adjutant-General.

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No. 280.

Mr. Nelson to Mr. Fish.

No. 703.] LEGATION OF THE UNITED STATES,
Mexico, January 31, 1873. (Received February 18.)

SIR: The opening of the railroad from Vera Cruz to Mexico was celebrated with great *éclat* in this capital, and has been the occasion of a number of balls, banquets, and other entertainments. The line of the railway was opened to the public on the 22d instant.

Public order on the west coast has been disturbed by a body of malcontents under the command of Manuel Lozada. During the present month several commissions from the military district of Tepic, in the state of Jalisco, have come to this capital to confer with the government in respect to certain discriminations which they desire the government to make in favor of the said district. The pretensions of the leaders of this movement are all more or less unfounded. The answer of the government was firm and decided; to the effect that the constitution and laws must prevail throughout the whole republic, and that the government could make no exceptions. This determination of the executive was not well received at Tepic, and on the 17th instant eighty-seven persons, calling themselves Mexican citizens, representing the village of Nayarit, met in the town of San Luis de Lozada, and there formed and adopted what they call a "liberative plan." This plan or platform begins by an *exposé* of the state of the country, and vehemently attacks the present executive of the republic. The plan contains sixteen articles, but the most noticeable feature is the proposed restitution of the property of the church, which had been confiscated by the liberal government.

1. The first article declares that the villages of the Sierra de Alica (acknowledging as before that of Nayarit as the center) are met with the special object of deliberating with the best intentions how to avoid the unjust war the government has declared toward them, and to follow, as heretofore, their honest work.

2. The second article gives to the forces of Nayarit, the title of "*The Mexican popular restorative army*," the general-in-chief being Manuel Lozada.

3. The third article delares that this liberative plan shall be presented to the congress of the union.

4. The fourth article threatens to punish any person of whatever rank who may protect the enemy.

5. The fifth article forbids Mexicans from leaving the country during the civil war without a passport from the general-in-chief of the insurrection.

6. The sixth article states that after the victory of the plan the chief of the insurrection will convoke "ayuntamientos," as representatives of the people, to name for each state three representatives, who will meet at a place designated by the chief to deliberate on the form of government the country is to have, be it a *republic, an empire, or a kingdom.*

7. The seventh article proposes that in the mean while the nation will be governed by "*municipes*," or citizens elected by the people, and who will be perfectly independent and sovereign.

8. The eight article states that the forces will only receive such pay as can be given them, or that they may take from the enemy.

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9. The ninth article advises the treasury employés of the federation, and merchants, natives or foreigners, that, after the promulgation of the plan, all liquidations and transactions are prohibited in the public offices, under penalties.

10. The tenth article abolishes internal custom-houses, and gives power to the "ayuntamientos" to procure resources necessary for the expenses of the state.

11. According to the eleventh article, the public debt will be conscientiously paid, both foreign and national.

12. The twelfth article recommends public education.

13. The thirteenth article promises freedom to the press so long as it treats of progress and morality.

14. The fourteenth article gives power to the general-in-chief to declare what ports shall be opened.

15. The fifteenth article guarantees protection to life and property, including such public works as railroads, telegraphs, &c.

16. The sixteenth article is as follows:

"Let the present plan be communicated to foreign governments, manifesting to them the positive desire to renew with them the best relations of friendship and commerce. The general-in-chief is, with this end, invested with faculties to name, provisionally, diplomatic representatives near those nations."

Immediately after the promulgation of this plan, some of the towns of Jalisco and Sinaloa were invaded by the insurgents. The government is meeting the emergency with great promptness, and no doubt the revolt will be speedily suppressed.

Telegrams received in the city yesterday announce the defeat of Lozada at Mojonera, about five leagues from Guadalajara, by a federal force under General Corona.

The rebels were six thousand strong, and, it is said, lost about one thousand in killed and wounded; the loss of the government forces is estimated at three hundred.

Another telegram states that Colonel Altamirano, on the 29th, routed two thousand rebels at Rosario, in Sinaloa.

I have, &c.,

THOMAS H. NELSON.

No. 281.

Mr. Nelson to Mr. Fish.

No. 707.] LEGATION OF THE UNITED STATES,
Mexico, February 10, 1873. (Received March 12.)

SIR: I have the honor to transmit herewith a printed copy of a letter addressed by me to the president of the Chamber of Commerce of New Orleans, in reply to a communication requesting my views as to the best mode of establishing and maintaining trade and commercial relations between the United States and Mexico. (A.)

I also inclose a copy of an editorial article from the Diario Oficial. (B.

I have, &c.,

THOMAS. H. NELSON.

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A.

[From the New Orleans Republican.]

COMMERCIAL PROSPECTS AND PROGRESS OF NEW ORLEANS.

A letter addressed by Hon. Thomas H. Nelson, United States minister at Mexico, to J. H. Oglesby, esq., president of the Chamber of Commerce of New Orleans.

TERRE HAUTE, INDIANA, *December* 13, 1872.

DEAR SIR: Instead of returning to my post of duty by way of New Orleans, as I had intended, I find, on the eve of my departure, that important considerations compel me to go by way of New York. I will therefore submit in writing some hastily prepared suggestions, in response to your communication in respect to the prospects and methods of establishing and maintaining commercial and mercantile relations with our sister republic.

Nothing is more common among persons who possess but a superficial knowledge of Mexico than the opinion that its present condition is infinitely less prosperous than before its emancipation from the yoke of Spain.

This statement, which first acquired currency in the United States about the time of the Mexican war, and which at that time was based upon plausible, if not upon correct reasoning, has obtained such strength by constant repetition as to have become one of the commonplaces of the American press, and one of the firmly rooted convictions of the American people. And yet, to those who know in what consists the real strength and prosperity of a people; to those who can distinguish between the interests of a limited class and those of a nation at large; to those who understand that the tawdry finery of a score of aristocrats, and the deceptive ostentation of a church endowed with the spoils of centuries, does not constitute national prosperity; to those, in short, who have instituted an intelligent comparison between the Mexico of to-day and the Mexico of the preceding generation, and with New Spain under its latest viceroys, it is apparent, not only that Mexico has made notable strides along the pathway of progress, but that she has passed through the furnace of political regeneration, has secured the great conquests of civil and religious liberty, and has opened wide her doors to the regenerating influences which will make her, in brief, a participant of the wonderful blessings which Providence has so lavishly bestowed upon our own favored land.

At the beginning of the present century, and for many years thereafter, Mexico was the most populous country in the New World, and its capital was the largest city in America. Since that time Mexico has nearly doubled in population, while it has lost two-thirds of its territory; but the miraculous rapidity with which the United States has advanced, leaving Mexico far behind, causes us to regard her slower growth as a retrogression.

The long series of revolutions of which Mexico has been the prey has given rise to the natural opinion in foreign countries that the Mexican people are essentially turbulent and impossible to govern. Those who hold this opinion are not aware of the causes which have lain at the bottom of Mexican commotions, and consequently of the reasons which may be adduced to show that the revolutionary epoch in Mexico is substantially closed.

Mexico at the time of achieving her independence had absolutely no education in self-government. The movement of independence, commenced in 1810 by the Priest Hidalgo, was drowned in blood after eight years of irregular warfare, during which the insurgents never succeeded in establishing a regular government. The movement of Iguala, which, in 1820, effected the separation from Spain, under the guidance of Augustine Iturbide, had in view merely her independence from the Spanish yoke, but without a thought of effecting any change in the form of government.

That Mexico is to-day a republic is primarily owing to the refusal of the royal family of Spain to send one of its princes as the monarch of Mexico; and, secondarily, to the reaction brought about by the Spanish party in Mexico, who were unwilling to see a native of the country seated upon the throne which they had destined for a Spanish prince. The republic was founded in 1824, after the fall of the ephemeral empire of Iturbide, not because there was not a republican party in Mexico, but because that was the only possible form of government in the absence of a monarch. The first generation of Mexican presidents and cabinet ministers was composed almost exclusively of persons who were at heart monarchists, and it is easy to divine the confusion which this fact introduced into all branches of the administration. Personal ambition took the place of administrative talent, and as armed force was the only certain means of satisfying such ambition, none but military leaders for nearly forty years ever occupied the presidency of Mexico. The first constitution, a hastily devised imitation of our own, could not flourish in such soil. The American Constitution had for its mission to unite colonies previously separated; the Mexican constitution erected semi-independent states in a country previously ruled by a centralizing system. It

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was natural that the first generation of the independent existence of Mexico should be filled with the complex strife between despotic and liberal institutions, between centralism and federalism, and that the strife should be the more bloody because largely made in the interest of personal ambition. The most representative man whom Mexico has produced, General Santa Anna, aptly symbolizes in his manifold career the war of ideas from which Mexico has but just emerged. Commencing life as a subaltern in the Spanish army, in waging war upon the early insurgents, we see him in 1821 acquire the rank of general by co-operating in the monarchical revolution of Iturbide; to be the first to pronounce against that unhappy Emperor in 1822. In the series of nearly fifty rulers who have held sway in Mexico since then, Santa Anna has waged open or secret war for or against every administration but his own. In his first presidency he was elected as a federalist, and overthrew the federal constitution. In his second term he again overthrew the existing institutions in favor of another plan of government. In his third presidency he restored the constitution of 1824, and his last administration made himself dictator, with the title of "His Serene Highness." What Santa Anna did upon a grand scale many other military chieftains did upon the lesser theater of the state governments. The question of the form of government could never be said to be definitely solved for Mexico until the adoption in 1857 of her present constitution, and that event, as is well known, became the signal for the essentially religious contest known as the war of reform, which, in its turn, led to foreign intervention and to the evanescent empire of Maximilian.

The facts upon which the preceding *résumé* are founded fill the melancholy history of Mexico for half a century, and, it must be confessed, are quite sufficient to justify the popular impression of Mexico as an essentially turbulent country.

Yet, in the light of the above considerations, can it be wondered at that it has cost half a century of blood and suffering to conquer the assurance of a prosperous future under a genuinely republican system of government?

The history of Mexico during the fifteen years that have elapsed since the adoption of the constitution of 1857 is a sufficient guarantee that such a future is really before her. The great questions which have so long agitated the country have been, as I believe, definitely resolved. It is certain that Mexico is to continue without interruption under her present republican and federal *régime;* it is certain that the power and influence of the clergy, which for three centuries and a half preyed like a vampire upon her life-blood, is irretrievably gone; it is certain that the people have now received that education in self-government which will enable it easily to resolve the administrative problems of the future. Above all, there now remains no great question of the future, which, like the slavery question for a long time with us, was a standing menace for the perpetuity of her institutions. Strong in her costly acquisitions of liberty and independence, strong in the assured friendship of her powerful neighbor, rich in the countless treasures of her soil and climate, fortunate beyond calculation in her geographical position with reference to the commerce of the world, resolute in the adoption and naturalization of the great inventions of the age for abbreviating time and space, Mexico is now just entering upon an era of internal improvements which may be considered to date from the conclusion of the railway between the city of Mexico and the port of Vera Cruz at the end of the present year.

The competition of American and European capital for the lucrative privilege of providing Mexico with means of communication has fairly commenced, and the Americans are likely to gain the preference. Two great railroad enterprises, either of which, if fully carried out, is certain to revolutionize the commerce of Mexico, are now knocking at the doors of the Mexican Congress for permission to confer upon Mexico the greatest of blessings. I refer to the International Railway of Texas, which proposes to construct a line from the city of Mexico to the Rio Grande, and to the scheme of General Rosecrans for a system of railways to connect most of the important cities of the republic with its capital. It is probable that both undertakings will be successful in great part, and that five years hence it will be possible not only to leave New Orleans in a palace-car and arrive within a week in the city of Mexico, but also to visit in the same manner the eight or ten principal cities of the republic. Within the same period of time the Texas Pacific Railroad will undoubtedly be completed, skirting one-half of the northern frontier of Mexico, and intersecting at Paso del Norte with the narrow-gauge Denver and El Paso road, which will probably extend far beyond Chihuahua toward the interior of Mexico. The port of Guaymas will then be connected with the capital of Arizona by means of a railroad running due north and intersecting the Texas Pacific at another point.

When once these links of union shall have been established, the commercial relations between the United States and Mexico will rapidly assume enormous proportions. Each country seems to have been created expressly to become the natural feeder and the natural market of the other. Each abounds, by reason of its differences of soil and climate, in precisely the productions which are most needed in the other. While in the United States the area which can be successfully devoted to the cultivation of articles of such universal consumption as cotton, sugar, rice, and tobacco is necessarily limited,

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and for the three latter is sufficient to supply but a small proportion of the home demand, the capacity of Mexico for the production of these four great staples is practically unlimited. In connection with our sources of supply of these articles a consideration arises which I think should have great weight with our Government in awarding the preference to Mexico above Cuba, Puerto Rico, and Brazil, which at the present time enjoy the profitable monopoly of these great staples of commerce. Since the moral sense of our nation, aided by the irresistible logic of events, pronounced its fiat of reprobation upon the institution of human slavery, the United States should be considered as essentially an anti-slavery nation, and, in despite of former prejudices, no section of the country has now any interest in defending the memory of that extinct abuse. It is now time that, having washed our own hands of that reproach by the events of a period to which I need not refer in detail, we now have a right to openly express our opinion of slavery in other countries, where it exists in forms so repugnant as almost to justify, by contrast, the milder system which cost us so much blood and treasure to extirpate. We have now a right, and many would maintain that it is a national duty, to discriminate in our tariff legislation between the product of free and slave labor, and such just discrimination would undoubtedly redound chiefly to the profit of Mexico. But it is not merely under philanthropical aspects that such legislation may be justified and recommended; it is equally desirable from the stand-point of the Monroe doctrine. The countries competing with Mexico in the staples above mentioned are not merely countries whose productive industry is based upon slave labor, but they are also ruled upon the monarchical system, which, at this period of the nineteenth century, ought to be considered an exotic upon American soil. None of the countries in question could justly complain of a discrimination based upon two such powerful and equitable considerations. It would constitute another great step in the onward march of our distinctively American international law, and would probably find imitators, as it would certainly merit applause and respect, among the more advanced nations of the Old World. It would be a signal national testimonial of friendship and encouragement to all the republics of the New World, and would be directly profitable, not only to Mexico, but also to the five republics of Central America, to Colombia, and Venezuela.

Moreover, from the materialistic stand-point of national and private interests, the policy I recommend has peculiar claims upon the people of the southwestern States, more particularly Louisiana and Texas. Their commercial future is so direct and intimately bound up in the growth and development of mercantile relations with Mexico, as to make it unnecessary to dwell further upon this point. Every legislative step which tends to foster such commerce is a step in favor of the Southwestern States.

Not only the four staples which I have mentioned above would share in the impulse given by a wise development of mercantile relations with Mexico; there are other articles of vast consumption, not produced upon our own soil, with which Mexico is capable of supplying the world. I need only mention coffee, chocolate, indigo, mahogany, and dye-woods. In return for these precious commodities Mexico would naturally receive from us the manufactures which she now buys chiefly from England, France, and Germany. Thus, our American manufacturers, availing themselves of our magnificent water-power, would take deep root in the Gulf States, and would elevate them to a degree of prosperity unknown in their palmiest days of old.

To attain this result the adoption of the legislation I have indicated would undoubtedly tend in no ordinary degree.

The completion of the projected line of railways between the two countries will certainly have a vital influence in the same direction, with or without the stimulus of such favoring legislation.

But for the inauguration of a vast and profitable commerce between Mexico and the Southwestern States, it is not necessary to await the tardy apparition of the iron-horse in the central States of Mexico, nor to follow the uncertain course of legislation. The road to the treasures of Mexico lies open to the merchants of New Orleans, and it is an unceasing wonder to me that that road has been completely abandoned. Mexico has done her part. In the years since the fall of the short-lived empire, she has increased the production of her Gulf States; she has reformed vexatious fiscal legislation, by means of a comparatively liberal tariff which went into force the 1st of July last; and, above all, she has completed the most important railway for the interests of her maritime commerce. Before the 1st of January next, trains will have passed from the capital of Mexico to her most important sea-port. Above all, she stands ready to give, if she has not already given, a liberal subsidy to a line of steamers from New Orleans to Vera Cruz. She has already aided the establishment of a line of coasting steamers, owned in New York, and which should begin its trips to all the Mexican ports in the Gulf in November or December of the present year. The importance of this line as a feeder to a New Orleans line cannot be ignored. And I have no doubt that, in the case of the adoption of the friendly American legislation to which I have before adverted, Mexico would be sufficiently grateful to her nearest neighbor and her best friend to

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make corresponding in fact, if not in name, something very like a reciprocity treaty, which will redound to the benefit of both countries.

In conclusion, I beg leave to inclose a copy of a dispatch addressed by me to the Department of State in November, 1870, which covers most of the inquiries contained in your communication.

I remain, &c.,

THOMAS H. NELSON.

J. H. OGLESBY, Esq., *President of the Chamber of Commerce, New Orleans.*

Mr. Nelson to Mr. Fish.

LEGATION OF THE UNITED STATES,
Mexico, November 4, 1870.

SIR: In compliance with the instructions contained in the circular from the Department of State dated the 19th of August last, I have the honor to submit the following facts and considerations respecting the present state of commercial intercourse between the United States and Mexico, the causes of the present prostrate condition of American interests here, and means which might probably be efficaciously employed by our Government to bring about a more prosperous state of affairs.

On the 1st of August, 1869, I addressed a confidential circular to all the American consuls and consular agents residing in the republic of Mexico, requesting them to furnish me with data concerning the political and material condition of the States in which they respectively reside. Replies were received from most of these officers, and copies of several interesting and valuable communications were transmitted by this legation to the State Department in the closing months of 1869 and the earlier portion of the present year. I respectfully suggest that a collation of these documents will furnish data upon many of the points covered by the Senate resolution.

As the chief practical inference from so many communications, and from my own observations, experience, and inquiries, I may state that the present commercial intercourse between the United States and Mexico is in a state of the utmost prostration and decadence. The reports of our consuls are unanimous upon this point. In this city, which is one of the largest in Spanish America, the number of American mercantile houses does not exceed two or three, and the total number of American residents is but a score or two. The same is the case in Vera Cruz, and in the principal ports of the Pacific, as well as, with greater reason, in the large cities of the interior.

The commerce of importation into this republic is almost exclusively in the hands of European merchants, chiefly English, French, and German. The large number of citizens of the Southern States of the Union, who came to Mexico immediately after the rebellion, have almost all returned to the United States. The agricultural colony near Cordoba, from which so much was expected, has been completely broken up and dispersed, and there is not at this moment in Mexico a single notability remaining out of the many confederate refugees. Of the few American commercial houses in Mexico, the greater part import more foreign than American goods, there being, I believe, but one house which deals exclusively in articles of American manufacture—that is to say, in arms and ammunition. On the Pacific coast our commerce, via San Francisco, is almost limited to the vessels of the Pacific Mail Steamship Company, which complains of a loss of trade, and is even said to be running at a loss. The importations by this line are chiefly confined to arms and agricultural and mining implements, with small quantities of hardware and Chinese goods. The causes of this low state of American commerce in Mexico are but too easily explained. They may be summed up as follows:

1. The force of habit; the Europeans having preceded us in establishing commercial relations here.

2. The low rate of interest which Europeans pay for their borrowed capital, contrasting with that of the United States in the proportion of from 5 to 10 per centum.

3. The fact that European manufacturers of cotton and fancy goods invariably consult the Mexican taste, thus enabling them to make little account of durability of material, and successfully to compete with American articles of stronger texture but of subdued colors.

4. The chronic insecurity of life and property, which has exerted, and still exerts, a fatal influence upon all foreign capital in the country, and whose effect upon Americans has been absolutely to preclude its introduction.

5. The entire want of railroad and telegraphic communication between the two countries along our 1,500 miles of frontier.

In respect to the proper remedies which might be employed by the Government of the United States to enable Americans gradually to assume that commercial importance in Mexico to which our proximity and political sympathies entitle us, they may be summed up in general as being those measures which will most effectually operate for the removal or neutralization of these five causes.

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Undoubtedly, under favorable circumstances, something may be accomplished diplomatically to place the commerce of the United States upon a more favorable footing as toward the Mexican revenue system. By the continuance of the wise policy of giving moral aid and countenance to the present liberal and patriotic government of Mexico, we shall also contribute to the rapid development of that energetic protection to life and property which is of such urgent necessity, and which this Government is doing all in its power to establish. In the line of active promotion of American interests in Mexico, I know of nothing more important to be consulted than the facility and rapidity of intercommunication by means of railway and steamship lines and telegraphs, both as between the two countries and as within the extensive Mexican territories, where the almost total absence of good means of communication is proverbial. However desirable American colonization may be to Mexico and to our interests, it cannot be effectually promoted in any other way. The construction of railways, then, through the State of Texas and the Territories of New Mexico and Arizona to the Mexican frontier, is an object of the first importance for the interests to which this inquiry is directed. When such roads once exist to the frontier, the Mexican government will undoubtedly make great efforts to promote their extension through the vast States, fabulously rich in mines and in agricultural wealth, of her northern zone. The unfriendly legislation, under the name of the *zona libre*, and other burdensome clogs upon our commerce, would then naturally disappear. The growing prosperity of our Southern States, and especially the gratifying progress of the port of New Orleans, is destined to exert a speedy and beneficial influence upon our commerce with Mexico. It is worthy of inquiry whether our Government might not properly do something in aid of the re-establishment of lines of steamships from New Orleans to the Mexican ports of the Gulf.

Finally, everything which promotes a knowledge in detail of the vast but undeveloped resources of the several States of Mexico will inevitably exert a powerful influence for good in the desired direction. The speedy construction of the Tehuantepec railroad will be an inestimable boon to the increasing community of interests between the two republics. The survey about to be made of that isthmus, by an expedition under the auspices of the American Navy Department, will, if successful in its object of establishing the feasibility of interoceanic navigation, do more than anything else that could be suggested to excite in our commercial houses that interest and curiosity which are the precursors of enterprise, beside giving the widest publicity to the results of that survey. If favorable, might not our Government usefully undertake the scientific survey of other portions of Mexican territory contiguous to our own, with a view to other international public works?

The suggestion made in the closing paragraphs of the able preliminary report on this subject of the Department of State, concerning a congressional appropriation to employ statisticians of ability to collect and collate information upon this subject, seems to me eminently conducive to the attainment of important results, and, in case of its adoption, I would suggest that one or more persons be detailed to the special study of the subject upon Mexican soil. I have addressed a note to Mr. Romero, the secretary of the treasury, requesting him to furnish me certain information and statistics upon several of the matters involved in this inquiry, which I hope to be able to communicate to the State Department by the next steamer.

I have, &c.,

THOMAS H. NELSON.

[Inclosure B.]

Extract from the Diario Oficial, Mexico, February 8, 1873.

HON. T. H. NELSON, MINISTER OF THE UNITED STATES IN MEXICO.

Our intelligent colleague, the *Trait d' Union* has given us the satisfaction of a perusal of the letter written by Mr. Nelson to Mr. J. H. Oglesby, president of the chamber of commerce in New Orleans; it is a document of vast importance, which reveals on a grand scale, without forgetting for a moment historical exactness, the origin of past revolutions in Mexico, its political and social conquests up to the promulgation of the fundamental code of 1857, and of the laws of reform, a condensation of the progressive aspirations of the Mexican people against the tendencies of a past which it was no longer possible to accept.

Notable indeed are the impartiality and the observing and philosophic spirit which Mr. Nelson gives to the past and present situation of Mexico, in order to make this country known in his own, where so many prejudices have existed and exist against us, thanks to that unreflecting spirit which neither meditates nor analyzes. To the

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partisans of this school it is that Mr. Nelson addresses himself, with all the authority of his word inspired in the philosophy of history, in the practical knowledge acquired during his stay in the country, and in that elevation of ideas which should distinguish the politician and the statesman in order to judge a people and their institutions. These qualities shine forth in Mr. Nelson's letter, and should increase the gratitude of the Mexicans, who are so frequently misjudged and worse understood abroad.

But there is more still. Mr. Nelson, in examining the future of Mexico by means of that regeneration which must be effected by railways, takes pleasure in indicating that vast horizon which he discerns for our agricultural productions and all our other products, the day when steam shall place us in contact with American markets.

All the advantages to-day enjoyed by the markets of Cuba and Brazil, says Mr Nelson, will be Mexico's, whose fertility and abundance of products will suffice to satisfy the necessities of the whole world.

The philanthropic abolitionist proposes to his fellow-citizens, on this account, an idea worthy of being thought over by the American people. "Free labor," says Mr. Nelson, "must be preferred to obligatory labor. And we," he proceeds, "who have liberated millions of slaves, thus purifying our institutions and erasing that blot which stained them, must carry out this humane principle in all its parts." The consequences of this theory would favor the products of free labor in Mexico and the South American republics which have abolished slavery. If, as is to be expected, the idea of Mr. Nelson prevails upon the intelligence of the American people, it would be difficult to find a more formidable weapon with which to destroy in America that human traffic which is condemned by the conscience of the civilized world.

That our readers may become acquainted with Mr. Nelson's letter, we commence publishing it to-day, taking it from our colleague, the *Federalista*, whose proverbial activity has saved us the agreeable task of its translation.

No. 282.

Mr. Fish to Mr. Nelson.

No. 320.] DEPARTMENT OF STATE,
Washington, February 11, 1873.

SIR: I transmit a copy of a note of yesterday, addressed to this Department by Sir Edward Thornton, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary accredited to this Government, requesting that you may be authorized to use your good offices toward preventing the exaction by the Mexican government of duties on goods imported by Messrs. Kelly, at Mazatlan, which duties had previously been paid to insurgents there. You will take that course accordingly. It is difficult to understand upon what ground of equity or public law such duties can be claimed. The obligation of obedience to a government at a particular place in a country may be regarded as suspended, at least, when its authority is usurped, and is due to the usurpers if they choose to exercise it. To require a repayment of duties in such cases is tantamount to the exaction of a penalty on the misfortune, if it may so be called, of remaining and carrying on business in a port where the authority of the government had been annulled. The pretension is analogous to that upon which vessels have been captured and condemned upon a charge of violating a blockade of a port set on foot by a proclamation only, without force to carry it into effect.

The principle, that duties once paid in a part of the territory of the country in the possession of an enemy are not liable again to be paid when the enemy is expelled or withdraws, was solemnly decided by the Supreme Court of the United States in the case of Rice, 4th Wheaton, page 246.

Since the close of the civil war in this country, suits have been brought against importers for duties on merchandise paid to insurgent authorities.

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Those suits, however, have been discontinued, that proceeding probably having been influenced by the judgment of the Supreme Court adverted to.

I am, &c.,

HAMILTON FISH.

No. 283.

Mr. Nelson to Mr. Fish.

No. 709.] LEGATION OF THE UNITED STATES,
Mexico, February 15, 1873. (Received March 21.

SIR: The last battle between the government forces and the insurgents under Lozada, as I have heretofore advised you, was fought on the 28th ultimo, at Mojonera. The rebels were severely beaten on that occasion, and dispersed into several bands, the principal of which, under General Placido Vega, essayed to take possession of Guadalajara; but the federal general, Corona, put the city in such complete defense that Vega, in a few days, retired from his position. Another band of two thousand rebels invaded the state of Sinaloa, but on the 29th ultimo they were routed at Rosario by a federal force commanded by Colonel Altamirano.

When the government received news of the invasion of Sinaloa, orders were issued closing the port of San Blas, and at the same time authorized General Ceballo to man a ship of war to prevent contraband trade by the insurgents.

The defeat at Mojonera appears to have utterly demoralized the troops of Lozada, and it is not probable that any considerable force can again be mustered under his command. Large bodies of cavalry have been dispatched by the government to pursue and destroy the rebels, who have taken refuge in the "barrancas" and hills.

On the 5th instant an English vessel of war entered the harbor of Vera Cruz, bringing important despatches to the government, referring, it is understood, to an attack on the Belize by the Indians of Yucatan.

The railway to Vera Cruz continues to run regularly.

I have, &c.,

THOMAS H. NELSON.

No. 284.

Mr. Nelson to Mr. Fish.

No. 710.] LEGATION OF THE UNITED STATES,
Mexico, March 1, 1873. (Received March 21.)

SIR: On the 23d ultimo a general election took place for the office of the chief justice of the supreme court, which assumed much importance, because that functionary, under the constitution, is the vice-president of the republic, and becomes president in case of the death or absence of the actual president. It was thus that Juarez first became President upon the failure of the *coup d'état* of Commonfort, and Mr. Lerdo, as chief justice, became President upon the death of Juarez, and was afterward almost unanimously elected by the people. The discus-

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sion of the merits of the several candidates for that exalted post was conducted with great moderation and fairness by the press and their personal and political friends. The election passed off without excitement, and the result appears to be generally satisfactory. José Maria Iglesias, a distinguished juris-consult and statesman, and an ex-minister of President Juarez, has received a large majority of the popular vote over General Porfirio Diaz, General Vicente Riva Palacio, and General Ignacio Mejia.

No change has yet occurred in the cabinet of President Lerdo. The old ministers of President Juarez remain undisturbed, which causes much complaint and criticism among the immediate friends and partisans of the President.

No material change has occurred in the military situation in the western part of the State of Jalisco. Lozada complains that he is not supported in his revolutionary plan, and has retired to the mountains of Alica for refuge and protection, where he will, no doubt, soon be attacked and destroyed by the government force now in pursuit of him.

On the 16th ultimo a Protestant congregation, while engaged at worship in San Luis Potosi, was disturbed and dispersed by a large body of the populace instigated by Catholic priests; but the civil authorities immediately intervened and promptly checked the disorder.

I have, &c.,

THOMAS H. NELSON.

No. 285.

Mr. Nelson to Mr. Fish.

No. 712.] LEGATION OF THE UNITED STATES,
Mexico, March 4, 1873. (Received March 21.)

SIR: I herewith transmit copies of a very interesting and important correspondence between the Earl Granville, British minister of foreign affairs, and Mr. Lafragua, Mexican minister of foreign affairs, concerning certain incursions which, it is alleged, were recently made by Mexican Indians upon the British territory of Honduras. The British government intimates that, unless Mexico makes prompt reparation, it will be compelled to take measures in own hands to obtain satisfaction for the past and security for the future. The reply of Mr. Lafragua is firm and dignified, and, at the same time, furnishes a conclusive answer to the demand for redress.

I have, &c.,

THOMAS H. NELSON.

[Inclosure 1.]

Earl Granville to Mr. Lafragua.

FOREIGN OFFICE, *December* 20, 1872.

Mr. MINISTER: As relations between Great Britain and Mexico are actually suspended, I have the honor to write directly to your excellency, in the hope of arriving at a pacific solution of a question which, probably, is well known to your excellency, and which creates at this moment a very painful sensation throughout England. I think it hardly necessary to say that I allude to the incursions made by Mexican Indians on the British territory of Honduras.

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The circumstances of the last incursion are the following:

About 8 o'clock on the morning of the 1st of September last an attack was made on the city of Orange Walk, British Honduras, by a numerous force of Ycaichi Indians, supposed to be at from one hundred and fifty to two hundred men proceeding from Mexican territory and commanded by a man named Marcos Canul, who was said, and he is still believed, to be in the service of the government of Campeche, one of the States of the Mexican confederation.

The attack was a complete surprise, and had it not been for the great bravery of the garrison, the police, and the inhabitants, the whole city would have been sacked, the English population assassinated, and, according to all probability, other towns also attacked.

However that may be, after a desperate struggle, which lasted until 2 o'clock in the afternoon, the Indians retired and took refuge on Mexican territory, but not until they did great injury.

The officer who commanded the troops was severely wounded, two soldiers were killed, and fourteen wounded, eight of them dangerously so; a civilian, named Gonzales, Yutecan by birth, was brutally assassinated, and twenty-five or thirty other persons received injuries more or less serious, from the results of which two have died. Fifteen houses were burned to the ground, comprising in that number that of the mayor substitute, that of the guard of police, and the houses of the officers and all they contained; all the stores were robbed and almost all the private houses forced and plundered.

Besides the real loss of life and property caused in this manner, it is evident that the consequences of incursions of this nature are seriously opposed to the prosperity of the colony of British Honduras.

The said attack was perpetrated by a band of robbers, citizens of Mexico, proceeding from Mexican territory and commanded by a person who is believed to be employed by the government of a Mexican State. The bandits, repulsed, took refuge again beyond the Mexican frontier, and there they were protected against the consequences of their crime. This is not the only incident of this kind; a like inroad took place in 1870, and the colony has no security against a renewal of such attempts from one moment to another.

The government of Her Majesty considers that it has the right to address itself to the Mexican government in order that it may recompense in a convenient manner the losses occasioned by these outrages, and that it may take steps for the punishment of the criminals. It has equally the right to hope that the Mexican government will take proper measures to prevent in future such incursions on British territory.

It would be intolerable to permit a band of robbers to pass the frontiers to rob a British colony and to assassinate many of its inhabitants; that it should retire afterward to Mexican territory, and there, without fear of being punished, that it should be at liberty to prepare new incursions against peaceable inhabitants.

If, as the government of Her Majesty believes, the relations of the facts represented here cannot be controverted in their principal points, and that the government of Her Majesty, trusting in the justice of the statement in this affair, will cause the government of Mexico to attend to it soon, so that it will not be obliged to take measures in its own hands to obtain satisfaction for the past and security for the future.

GRANVILLE.

[Inclosure 2.]

Mr. Lafragua to Earl Granville.

MINISTRY OF FOREIGN AFFAIRS,
Mexico, February 12, 1873.

Mr. MINISTER: I have had the honor to receive the note of your excellency of date of the 2d of December last, in which your excellency has been pleased to observe that, the diplomatic relations between Mexico and Great Britain being actually suspended, your excellency writes to me directly with the hope of obtaining a pacific solution of an affair that causes painful sensations in England.

Your excellency alludes to the inroads made by Mexican Indians on the British territory of Honduras. Your excellency communicates to me that the last incursion took place at about 8 o'clock on the morning of the 1st of September, 1872, on which day the city of Orange Walk was attacked by some one hundred and fifty or two hundred Indians (Yciachi) proceeding from Mexican territory, and commanded by Marcos Canul, who, it is said, was, and he is believed yet to be, in the service of the government of Campeche, one of the States of the Mexican federation.

After giving many particulars of the attack, and enumerating the injuries caused by the invaders, your excellency insists on declaring that said attack was executed by a

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band of robbers, Mexican citizens, going from Mexican territory, and commanded by a person who is believed to be in the service of a State of Mexico; and adds that the bandits, when repulsed, took refuge again on the Mexican frontier, shielding themselves thus against the consequences of their crime; that this incident is not the only one, as a like incursion took place in 1870, and consequently the colony has no security that like crimes will not be constantly repeated. With this motive, your excellency declares that the government of Her Britannic Majesty considers itself justifiable in addressing the Mexican government in order that the losses occasioned by these crimes may be fully compensated and measures taken to punish the offenders and to prevent new incursions in future.

After considering that it would be intolerable that a band of robbers should be permitted to cross the frontier, and that after the pillage and assassination committed on a British colony they retire to Mexican territory, where, without fear of being punished, should be at liberty to prepare new incursions upon quiet neighbors, your excellency concludes, saying that, as it is believed by the government of Her Britannic Majesty, the relation of the facts now exposed, which cannot be controverted in their principal points, confident that the justice of the complaint will cause the Mexican government to attend to it promptly, thus avoiding the necessity of the English government taking in its own hands the necessary steps to obtain satisfaction for the past and security for the future.

Of all this I have given an account to the President of the republic, submitting also to him the antecedents which exist in this office relative to depredations committed by the Indians of the Isthmus of Yucatan, as well as in the colony of Belize as in the States of Yucatan and Campeche.

From a strict examination that has been made, it is determined that no responsibility rests with the Mexican government for the acts that prompted the note of your excellency, and which I have the honor to answer.

Your excellency, profoundly versed in international law, very well knows that governments are not responsible for the acts of their subjects only when they do not prevent crime, having it in their power to do so, when they tolerate it, or when they do not punish it. But if the crime is executed without the knowledge of the government, or if it does not succeed in punishing the accused, having availed itself of all the means in its power, the act would be worthy to be lamented as a great misfortune, but it could not cause a national dispute.

In the case of Orange Walk, the complaint cannot be founded on any act of the Mexican government that, directly or indirectly, can be considered as authorization or assent.

Neither can it be considered to countenance or tolerate the acts committed by the savages, because the constant care is well known with which the government of the union and those of Yucatan and Campeche have for many years maintained in the peninsula army corps destined exclusively to suppress and punish the Indians, not only when they invade the towns of those states, but even carrying the war to the territory that they occupy. And if this suppression, in which the republic has a noble and legitimate interest, has not always been complete, there never can be imputed, with justice to the Mexican government, any responsibility which, not only for international considerations but for its own decorum, has always placed, and yet places, in action all the elements in its power to obtain so important an object.

But, although for reasons expressed, the Mexican government is not responsible for the acts of the Indians, as your excellency determines in a very expressive manner, the fact that the robbers were commanded by Marcos Canul, who it is said is a chief that was, and is even believed to be still, in the service of the state of Campeche, it is my duty to inform your excellency that there is no data to prove that this individual has had any public character authorized or recognized by the national government.

In the department of war there is no proof that Canul has received any military grade. In this office is to be found the legal copy of a letter, dated August 20, 1866, directed by various Indian chiefs, among them Canul, to Don Felipe Toledo, partner of the house of Young, Toledo & Company, of Belize. In said letter the Indians complain of many faults committed by the agents of the company against the contract celebrated for the cutting of mahogany, and they threatened Toledo with vengeance. The terms which they use leave no doubt neither of the relations which formally bound them, nor the state of exasperation in which they were when they wrote the letter. And notwithstanding, as we will see afterward, until then the colony of Belize had no cause of complaint.

It also appears in this office that, on the 30th of August, 1866, the minister of Her Britannic Majesty, accredited near the so-called imperial government, passed a note complaining that, on the 27th of April of the said year, an armed force of one hundred and twenty-five men belonging to the tribe of Chichuaha Indians, commanded by its chief, Canul, had invaded the English territory and attacked, at a place called Quaile Hill, a party of mahogany cutters. The said minister said therein that Canul exercised authority under the existing government on a part of the national territory. The sub-

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secretary of relations of the said government answered Sir P. Campbell Scarlett in the following terms September 29th of the same year, 1866:

"Mr. Ramirez declares to his excellency, Mr. Scarlett, under date of 17th of October of last year, in answer to a note he addressed to him on the 2d of August preceding, that Mr. Salazar Ilarregui had given no order nor command to the Indian Canul, nor had anything to do with him in any respect, adding that this Indian acted on his own responsibility to revenge wrongs that had been perpetrated on his race on the English frontier. This same Canul being one of those who have warred in the Peninsula of Yucatan, obtaining arms, powder, and ammunition from the establishment of Belize." And as, since the year 1867, the legitimate government of Mexico has given neither military command nor authority of any kind to Canul to act in any public character, it is clearly evident that Canul can be considered only as the chief of a tribe of savage Indians, in which character he has not only committed hostilities on the inhabitants of Belize, but also upon the people of Yucatan, to whom doubtless he has caused more frequent and grievous injuries than to the former, obliging the Mexican government to maintain constantly on that frontier a bloody and costly war.

In the note of Mr. P. Campbell Scarlett, to which I have referred, the following words attract especial attention, and I recommend them to the consideration of your excellency:

"Before the establishment of the empire, the British subjects were in no manner molested in our possession of Honduras."

This assertion proves that the government of Mexico has not been remiss in giving the necessary security to the inhabitants of the colony of Belize, notwithstanding that both territories are bounded in that part of the country by lands almost deserted, or inhabited by tribes of barbarous Indians, who have rebelled against the republic, armed with implements of war which have been furnished them by the same who to-day wish to make the Mexican government responsible for crimes to whose easy execution the colony of Belize very actively contributed.

Notwithstanding, as your excellency acknowledges, the relations between Mexico and Great Britain are actually suspended; as the note of your excellency expresses ideas which it were necessary to rectify, it indicates the hope to obtain compensation for the losses suffered in Orange Walk. I must take advantage of this opportunity, granting the suspension of relations, also to answer directly your excellency, making you other observations, and a brief review of facts that have taken place in the peninsula of Yucatan.

During many years, and before the colony of Belize had arrived at its present state of prosperity, the Indians of those frontiers carried on quietly their commerce, and even permitted the speculators in wood to carry on their business perhaps more than was right. The Mexican government, maintaining at different points small garrisons of troops, could, without great sacrifice, preserve order, and make the Indians respect the British possessions as well as the rest of the peninsula. The English colony grew, and with it commerce, which did not content itself any longer with the indispensable necessities to the life of the Indians, such as aguadiente, salt, instruments of agriculture, and clothing. On pretext that the people of the frontier were maintained in a great part by hunting, the colonists commenced to sell and exchange with them for wood and skins a great quantity of arms, as well as powder and ammunition. As soon as those Indians, controlled only by force, could acquire arms and become trained in the use of them, they commenced to rebel and commit depredations against the white race. Rebellions became more frequent, and the Mexican government could not, without great efforts on many occasions, prevent the abuses of those tribes. In these rebellions, often unexpected, the towns of Yucatan have been desolated, and it was natural to suppose the Indians, guided by their inclination to plunder, would not be contented with pillaging the towns of the peninsula only, but turning their arms against those who had provided them, should sometimes make the people of Belize the victims of their depredations.

If your excellency will be pleased to consult the archives of the English legation you will find a long correspondence, in which it will be immediately perceived a great foresight on the part of the Mexican government, which often, and with very just reasons, calls seriously the attention of the government of Her Britannic Majesty toward the traffic in arms and munitions of war that the people of Belize held with the rebel Indians—a commerce which, before the rebellion was when least dangerous, and after, could not be considered but as an efficacious means to make war not only to Mexico but against civilization. The government maintains its right equally to reclaim with the same motives that your excellency does it to day, complaining also that the Indians find protection and refuge on English territory. From the many proofs that I have before me, I will cite some which will serve without doubt to prove the truth of the facts asserted.

In the year 1849 an inquiry was made, occasioned by the capture of an English pilot-boat called Cuatro Hermanos, by which it was proved that merchants of Belize sold munitions of war to the rebel Indians of Yucatan.

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On the 17th of October, 1855, an authority of Belize (William Stevenson) answered a communication addressed to him by a Mexican authority about the sale of powder and arms to the rebel Indians, declaring it to be true that Belize merchants sold powder and arms in considerable quantities to the Indians of Yucatan, but not with the intention that the Indians should employ them to make war, but only as any other object of commerce, and as the arms are very common and soon ruined, the consumers have to replace them every year, the same as the powder, which is always of a bad quality, and this commerce being retail, it could not be avoided, nor was it possible for the authorities of Belize to exercise any vigilance on so extensive a frontier.

The 21st of July, 1866, the governor of Belize, John Gardner, issued a decree prohibiting the sale of arms and other objects of war for three months, counting from that date, and under pain of fine of one hundred dollars and imprisonment, or hard labor for six months, from which it is seen that before the date of that decree, that the sale of arms was not only tolerated but authorized, and could be continued from the 21st of October, 1866.

But the most ample proof is that contained in the document, which is a legally authorized copy, which I have the honor to send you. Your excellency will see, that on February 22, 1867, the secretary of the government of Belize publishes a note, offering money for the arrest of Francisco Meneses and others, who had stolen forty arrobas of powder that were sent to Santa Cruz, that is, to the headquarters of the Indians then at war against the Mexican government, who were pillaging the towns of the peninsula and assassinating the inhabitants of the States of the confederation.

The explanation given by the authorities of Belize, far from removing from themselves the charges made by the Mexican government, have served rather to strengthen the complaints established, and to show the little disposition there was to prevent the Indians providing themselves with the means that later must necessarily be prejudicial to the colonists, if it be considered that the arms were put in the hands of men who are out of the pale of civilization, and consequently ferocious and implacable enemies.

Now, agreeably to the rights of nations, the responsibility of governments cease when they have put into practice all the elements in their power to prevent evils and punish crimes; because international obligations cannot extend further than that. Of the practical application of this principle, a thousand examples are presented in both ancient and modern nations, more especially those who, like England, possess colonies where they have to struggle against uncivilized people, who, like the United States of America, maintain a constant war with savages; and as Mexico, who finds it necessary to defend herself daily against invasions of savage tribes which threaten her immense frontier.

But the responsibility exists in all its strength when the citizens, and more so when the authorities, lend aid to the criminals. And this is the case in which the people and government of Belize find themselves in respect to Mexico. They cannot be ignorant of the object with which the Indians buy arms and other articles of war, as this is a fact that passes every day under their eyes; and notwithstanding they sell them these things, being witnesses of the innumerable evils that are perpetrated in the peninsula of Yucatan by the savages. In consequence, it is an undeniable fact that the colonists of Belize have fomented the war, contributing thus to the ruin of families, the death of peaceable citizens, and the devastation of a rich Mexican territory.

There is even more, Mr. Minister. The kind of war that the Indians make aggravate the charges in an extraordinary manner. This war does not sustain any principle, nor has for its object the usurpation of a territory to ultimately utilize it; it sustains vandalism and tends to satisfy the most ignoble passions. This war does not attack the rights of nations, but universal justice; it does not violate a treaty, but morality; it does not oppose a people, but all humanity.

The result of what has been said, that the damages caused by the Indians to the English colony are due not to the negligence of the government of Mexico, which has constantly suppressed the revolts and called the serious attention of that of Great Britain toward the incalculable injuries resulting from the traffic of arms in an exceptionable country, even to the authorities of Great Britain in that territory, who, indifferent to the misfortunes of others, they have not wished to foresee, and perhaps cannot at present prevent—this is the inexcusable result of the aid that they lent to what at first was, perhaps, in the colonists only an unworthy action of gain, and which, in the course of time, has been converted into elements of ruin.

Confining myself to the essential points of your excellency's note, I must declare to you, by order of the President of the republic, that the government of Mexico is, as it always has been, disposed to dictate such measures as may be necessary, and to put in action all the resources possible, to repress the criminals and prevent depredations. In regard to the compensation for losses sustained, the government does not doubt that your excellency could no less than acknowledge that it would be unjust to require it, treating not of the abuse by authorities, but of faults and crimes committed by a horde of savages, dangerous for both sides, and, in reality, enemies to both.

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This consideration requires more strength, if it is considered that, after a careful examination of facts, the Mexican government would have more right to ask indemnity, as the English colonists have given the Indians the most efficacious means to make against the peninsula of Yucatan a war of extermination, and cause in consequence innumerable evils to all the republic.

And in regard to the indication that your excellency makes respecting the probability that the government of Great Britain should take in its own hands the necessary measures to obtain satisfaction for the past and security for the future, the government of Mexico, in view of the reasons already given, confides in the honor of the government of Her Britannic Majesty to do it justice, avoiding the violation of Mexican territory and all other acts contrary to rights of admitted usages among nations, inasmuch as the republic has complied loyally with its duty.

I have, &c.,

LAFRAGUA.

His Excellency THE MINISTER OF FOREIGN AFFAIRS
of Great Britain.

No. 286.

Mr. Nelson to Mr. Fish.

No. 717.] LEGATION OF THE UNITED STATES,
Mexico, March 15, 1873. (Received April 1.)

SIR: Under date of the 3d instant, I directed a note to the minister of foreign affairs, inclosing copies of several communications transmitted by the Secretary of War of the United States to the Department of State, concerning recent depredations committed by persons residing in Mexico upon the property of citizens of the State of Texas. I pointed out the serious consequences that would inevitably follow if the Mexican authorities did not at once check these outrages, and invoked prompt and energetic action in the premises.

I have, &c.,

THOMAS H. NELSON.

[Inclosure 1.]

Mr. Nelson to Mr. Lafragua.

UNITED STATES LEGATION,
Mexico, March 3, 1873.

SIR: I have the honor to inclose herewith copies of several communications transmitted by the Secretary of War of the United States to the Department of State, concerning recent depredations committed by persons residing in Mexico upon the property of citizens of the State of Texas. The state of feeling on the Texas border, caused by these depredations, is conclusively shown, as well as the absolute necessity on the part of the Mexican authorities to endeavor to check such outrages. If this should not soon be done, exasperation of the immediate sufferers will inevitably extend to the rest of their countrymen and may lead to serious complications.

I beg to commend this subject to the special consideration of your excellency, and to invoke prompt and energetic action in the premises.

Your excellency will please be good enough to return to this legation the inclosed copies, when they have been sufficiently examined.

I remain, with sentiments of the highest consideration and respect,
Your excellency's obedient servant,

THOMAS H. NELSON.

His Excellency JOSÉ MARIA LAFRAGUA,
Minister of Foreign Affairs, Mexico.

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No. 287.

Mr. Nelson to Mr. Fish.

No. 721.] UNITED STATES LEGATION,
Mexico, March 31, 1873. (Received April 15.)

SIR: The federal troops under the command of Generals Corona and Ceballos reached the capital of the district of Tepic without any resistance after capturing the principal towns. Lozada, the chief of the rebels, has been abandoned by his troops, who submitted to the supreme government, offering their services and arms against their former commander. The revolt may, therefore, be considered as substantially ended.

The national Congress commences its regular sessions on the 1st of April, (to-morrow.) At a preliminary meeting of the deputies a few days ago, Mr. Francisco Gomez Palacio was elected president of Congress for the month of April, and Mr. Julio Zarat vice-president. The former gentleman is supposed to be opposed to the administration of President Lerdo. The national budget, the accounts of the last fiscal year, and the proposed railway projects, will form the principal subjects of discussion during the approaching session.

Messrs. R. C. Ritter & Co., American citizens, residing in Vera Cruz, and agents of the Alexandre line of steamers, have made a contract with the Mexican government to run a line of steamers between New Orleans and Vera Cruz for the term of four years from November next, making semi-monthly voyages, going and coming by way of Tuxpan and Tampico. The Mexican government is to pay them a subvention of three thousand six hundred dollars per month.

The *epizooty* has appeared in almost every part of the republic, attacking, at the same time, horses, mules, cattle, sheep, and fowls. It has rarely proved fatal, and its epidemic character is rapidly disappearing.

I have, &c.,

THOMAS H. NELSON.

No. 288.

Mr. Nelson to Mr. Fish.

No. 723.] UNITED STATES LEGATION,
Mexico, April 5, 1873. (Received April 23.)

SIR: The national Congress was opened with the usual ceremonies on the evening of the 1st instant, on which occasion President Lerdo delivered a brief address, a copy and translation of which is inclosed, (A and B.) Mr. Francisco Gomez Palacio, president of Congress, responded in behalf of that body, (C and D.)

I have, &c.,

THOMAS H. NELSON.

[Inclosure B 1.—Translation.]

Address of the President, Lerdode Tejada, to the Mexican Congress, on its opening, April 1, 1873

CITIZEN DEPUTIES: With the satisfaction justly inspired by the contemplation of the firm and peaceful development of our democratic institutions, you meet once more to discharge the high duties for the good of the republic, which relies upon your wisdom and your patriotism.

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Our relations with friendly powers continue to rest happily upon benevolent and cordial sentiments.

The convention of 1868, extending the period for the sessions of the Mixed Commission in Washington to investigate the claims of Mexican and American citizens, having expired on the 31st of January, a new convention has been made, extending the term for two years more. Our minister advises us by telegraph that the United States Senate has already ratified this new convention, and we await the official correspondence to confirm the advice. The moment it is received, the convention shall be presented to Congress, in order that, obtaining due ratification, it may at once take effect.

The commission organized, under the decree of Congress, to examine the troubles in the north, have been discharging their duties with consummate wisdom and notable activity. Soon their labors will be concluded, when they will present their report, which, according to the data received up to the present time, will undoubtedly result favorably for the republic.

The recent political changes in Spain have been notified officially to the executive, and, in reply, we have expressed our most cordial sympathies for the Spanish people in their efforts to establish a republic upon democratic principles.

During the recess of Congress a representative of Italy has arrived, who has been received with the consideration and sentiments becoming the friendship existing between the two countries. With him has been arranged a convention renewing the period for the ratification of the treaty of commerce which is now pendent, and also of the treaty of extradition which has already been ratified by the King of Italy.

The elections for the president of the supreme court (*ex officio* vice-president of the republic) have been effected peaceably and with absolute freedom. This is another proof of the adhesion of the Mexican people to our political system, and of their full confidence in the consolidation of our free institutions.

Although an existing law makes primary education obligatory, the established rules are not efficient for that purpose. Convinced of the transcendental importance of this principle, the executive will lay before Congress the initiative of a project whose object will be to make really effective its application. If the authority of the union can realize this in the federal district and in the territory of Lower California, it is to be expected that the several States will follow this example with laudable emulation. So great are the benefits of a superior education, that no efforts which may extend and perfect it should be omitted. But greater and immeasurable are the benefits accruing from the generalization of primary education—the surest bases upon which to elevate the character of our citizens and our national greatness.

The code to regulate proceedings in criminal cases has been finished, and it will be published before submitted for approbation, in order to consider the observations which the press and public opinion may offer.

In virtue of the authorization of Congress, a convention has been made for the establishment of a line of steamers between Vera Cruz and New Orleans, under conditions more favorable than those of the Vera Cruz and New York line. In the coming November, at the furthest, the service of this new line will commence, making two voyages monthly, touching both ways at Tampico and Tuxpan, thus offering further notable advantages for the transmission of correspondence, for passengers, and for trade.

The executive has considered with the most scrupulous attention the important question of railways to the interior, and onward to the Pacific. The result of this examination will be presented to Congress immediately, and the executive entertains the profound conviction that these great improvements demand every encouragement which a watchful prudence may dictate as at once efficacious and convenient.

The executive, duly authorized to arrange a reduction in the freight tariff of the Mexico and Vera Cruz Railway, with regard to national produce destined for exportation, has procured, with especial care, the removal of the obstacles that presented themselves, and now we have the satisfaction to present to Congress the arrangement made, which, assuring, as it does, immense benefits to the agricultural interest, and facilitating exportation, will realize the brilliant hopes based on the wealth and prosperity of the republic. The permanent reduction of the tariffs assured, to this we may append the arrangement by which the speedy completion of the railway to Jalapa is secured—a road which promises the most beneficent results, not only to the States of Vera Cruz and Puebla, but equally to commercial interests in general, as opening additional facilities for communication and for trade. In view of the great interests involved in this arrangement, which, though not necessarily demanding legislative action, well deserve the enlightened consideration of Congress, it was made *ab initio* a basis of the negotiation that, without the approbation of Congress, no part of the arrangement should be deemed valid, even on the points which were clearly within the competence of the executive to settle finally.

The great convenience resulting from the extension of telegraph lines has also received careful attention. The improvement of the line to Matamoras, which opens communication with abroad, has been secured. The construction of a telegraph which will put the capital of the republic in communication with the interior by way

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of Toluca, Maravatio, and Acámbaro, has been brought almost to a conclusion. The line connecting Durango with Chalchihuites has been purchased. The construction of the telegraph to connect Minatitlan with Tabasco is actively progressing.

Authorized by Congress to modify the maritime customs laws, a commission of enlightened and competent men has been appointed, whose labors are approaching a conclusion. The executive and the commission are in accord to adopt a liberal spirit in the proposed reforms, which shall be at the same time favorable to the revenue and to commerce, both which interests demand equal attention.

Although the national revenue has been notably reduced in consequence of the ultimate revolution, and also in consequence of, and as a natural, immediate result of, the change of various fiscal laws, the civil and military lists have, by adhering to the strictest economy, been covered with sufficient regularity.

As was becoming the duty and the credit of the government, the interest on the loan contracted in August of last year has been paid with exactitude, and the payment of the principal has been commenced and will be continued according to terms agreed upon.

Congress duly authorized the executive to contract a new loan not to exceed one million of dollars, an authorization always opportune whenever it might appear that the revenue receipts would not cover the ordinary and indispensable service of the administration, as also on occasions of any unforeseen emergencies, which, when not promptly heeded, might incur irreparable consequences. In view of the confidence manifested by Congress, the executive has sought to correspond thereto, exerting every effort to meet the necessary expenditures without recurring to this authorization, and this has successfully been done up to the present.

Congress has seen that, whenever circumstances permitted, the executive, without delay, has restored constitutional order in those States which the exigencies of war had placed under martial law. The State of Yucatan still remains in this situation on account of the pressure of special difficulties, complicated by the constantly recurring invasions of barbarous Indians. But, desiring to put an end to this normal condition, a high officer, who justly merits the confidence of the government, as well as of the political parties of Yucatan, has been sent there fully empowered to abrogate martial law, and information of this having been done is daily expected, in the confidence that no extraordinary difficulties have been presented.

Notorious have been the causes which during fifteen years maintained the district of Tepic in an exceptional situation.

The successive complications in which the republic found itself, impeded, during that long period, the remedy of this evil. But peace established in the country, the executive has been able to show that it felt its duty to make the action of the law and the principles of civilization reach Tepic. Elated by their long domination, those who were there in command resolved to proceed to extremities, carrying invasion to the very gates of Guadalajara, at the head of numerous bands. But the loyalty, the valor, and the discipline which the national army has so gallantly and repeatedly proven, have served not only promptly to hurl back the irruption, but also to occupy the greater part of the district of Tepic, after having dispersed the rebels in various engagements; and many of these have already submitted, delivering up their arms and material of war to the government. Although there are yet several bands in the fastnesses of the district, we may hope that the campaign will be speedily and happily terminated, and also, after so many years of license, the reorganization of the public administration, in conformity with what Congress (which has so long had this question under consideration) may decree.

Apart from this long-pending and now less serious difficulty, we are ably to congratulate ourselves upon the immeasurable benefits accruing from the general peace which the republic to-day enjoys, to which the zeal of the public officers, the loyalty of the army, and the opinion of the citizens in general so efficaciously contribute.

Citizen deputies: From the high sphere of your duties you will undoubtedly contribute to the realization of this great purpose, procuring by your wisdom and patriotism the happiness of the republic.

[Inclosure D.—Translation.]

Reply of Señor D. F. Gomez del Palacio, president of Congress, to the address of President Lerdo.

[Extract.]

CITIZEN PRESIDENT: It can but be satisfactory to the national representatives to hear the chief of state lay before the public the tranquil aspect of public affairs, and to manifest in expressive language the zeal with which he is animated to seek the

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common good in the faithful fulfillment of his duties. In that cause he can count with certainty upon the unfailing support of the people's representatives.

* * * * * * *

Farther, if Congress cannot but give preference to the discussion and approbation of the budget, not on that account will it fail to give its attention to the subjects to which the chief of state has thought proper to call attention, and it will second with singular complacency the projects of great improvements which may be presented upon just and beneficial conditions. To those of this character it is but just that the public powers give an active and assiduous attention in deciding as well as in executing.

Very perceptible in the Mexican people is their decision to maintain peace, and no longer allow themselves to be made the playthings of those who speculate upon their commotion; it is their lively desire that peace be consolidated, and the national prosperity be fomented by means of the incessant action of authority in procuring organization and the practical use of healthy principles founded upon our constitution, and to give impulse and development to the enterprises that facilitate the opening up of our immense national wealth. Each day that is allowed to pass without attempting something for these ends is looked upon by the nation as a positive loss. Congress, on account of its nature, is not supposed to take the initiative to satisfy that so perceptible general anxiety; but when its action is demanded, it will not show itself remiss in the fulfillment of its duty.

The most solid bases of a good foreign policy are, to recognize speedily and in good faith all just obligations to other powers, and never accede to a pretension which injures the rights or honor of the nation. In conformity with these principles will Congress fulfill its duty to the republic in regard to other nations, and its conduct on this point will be the more decided when its conviction is surest that this is most proper in order to obtain for us consideration and respect abroad, approbation and applause at home.

No. 289.

Mr. Nelson to Mr. Fish.

No. 727.] LEGATION OF THE UNITED STATES,
Mexico, April 24, 1873. (Received May 13.)

SIR: In reply to your No. 330, of the 20th ultimo, concerning a new attempt which is to be made for the removal of the Kickapoo Indians to their reservation in the United States, I have the honor to inclose a copy of a note which I addressed to Mr. Lafragua, under date of the 22d instant, (A,) requesting the co-operation of the Mexican government in this humane object, and of the reply of Mr. Lafragua of the same date, (B and C,) informing me that the necessary order (D and E) had already been sent to the governors of Coahuila and Nuevo Leon.

I have, &c.,

THOMAS H. NELSON.

[Inclosure A.]

Mr. Nelson to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, April 22, 1873.

SIR: Referring to my numerous previous communications on the same subject, I have the honor to inform your excellency that the Government of the United States has resolved to make another attempt to remove the Kickapoo Indians from Coahuila to their reservation within the United States. To that end it has appointed a special agent, who has been instructed to set out upon his mission during the month of May proximo.

The Government of the United States, in view of the grave difficulties which attend

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the further continuance of this tribe of marauders upon the Mexican frontier, whence they constantly and with impunity wage a predatory warfare upon the cattle-farms of Texas, hopes and believes that your excellency's government will take such measures as will not merely prevent the recurrence of that interference of the local authorities of Coahuila which frustrated a former effort of the same character, but will throw the moral and material weight of your excellency's government in aid of the humane object in view.

I have, &c.,

THOMAS H. NELSON.

[Inclosure C.—Translation.]

Mr. Lafragua to Mr. Nelson.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 22, 1873.

SIR: I have the honor to reply to your excellency's note of to-day concerning the new agent appointed by the United States to make an effort for the return of the Kickapoo tribe to its reservation within the United States.

This department had been previously informed of the appointment of a new commission, and had already taken the most efficacious measures to insure that the governors of the frontier States should render it all the aid it might need, as your excellency will see by the copy which I have the honor to inclose.

Having thus replied to your excellency's note, I renew the sentiments of my very distinguished consideration.

J. M. LAFRAGUA.

[Inclosure E.—Translation.]

Order to the governors of the States of Coahuila and Nuevo Leon.

DEPARTMENT OF FOREIGN AFFAIRS, AMERICAN SECTION.
Mexico, April 12, 1873.

To the Citizen Governors of the States of Coahuila and Nuevo Leon:

Certain civil agents, commissioned by the Government of the United States of America to superintend the contemplated return of the Kickapoo Indians to their reservation in the United States, being about to arrive on the frontiers of Coahuila and Nuevo Leon, the citizen President has been pleased to direct that you be immediately and very urgently requested to render these commissioners all the aid they may need for the pacific arrangement of this matter. You will also please immediately inform this department of all the incidents which may occur in this connection.

Independence and liberty!

LAFRAGUA.

No. 290.

Mr. Nelson to Mr. Fish.

No. 731.] LEGATION OF THE UNITED STATES,
Mexico, April 25, 1873. (Received May 13.)

SIR: I inclose herewith a translation of a note from Mr. Lafragua, dated the 12th instant, (A,) with which he transmits a communication from the Mexican war department of the 9th instant, (B,) stating that orders have been issued by that department for watching and pursuing cattle-thieves on the Texan frontier.

I have, &c.,

THOMAS H. NELSON.

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[Inclosure A.—Translation.]

Mr. Lafragua to Mr. Nelson.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 12, 1873.

SIR: I have the honor to inclose a copy of a communication addressed me by the war department in reply to one which I had sent to that department concerning the complaints of cattle-stealing in Texas made in a note from your excellency.

I renew to your excellency the assurance of my attentive consideration.

J. M. LAFRAGUA.

[Inclosure B.—Translation.]

Mr. Mejia to Mr. Lafragua.

MINISTRY OF WAR AND MARINE, FIRST SECTION,
Mexico, April 9, 1873.

Citizen Minister of Foreign Affairs, Present:

In reply to your communication dated the 5th instant, in which you were pleased to inclose a copy of the note and documents which Mr. Nelson, minister of the United States, addressed to your department concerning a complaint of cattle-stealing committed in Texas by malefactors alleged to be Mexicans, I have the honor to state that this ministry has already issued orders, in so far as appertains to it, for watching and pursuing the thieves in question.

Independence and liberty!

MEJIA.

No. 291.

Mr. Nelson to Mr. Fish.

No. 733.] LEGATION OF THE UNITED STATES,
Mexico, April 26, 1873. (Received May 13.)

SIR: At the request of six American Protestant missionaries now in this city, I yesterday presented them to President Lerdo. One of their number having made an address asking for an assurance of his disposition to protect Protestants in the exercise of their religion, the President made an earnest and energetic reply, which was completely satisfactory to the gentlemen in question. I inclose a memorandum of this reply of President Lerdo.

I have, &c.,

THOMAS H. NELSON.

Memorandum.

In reply to the address of Dr. Cooper, asking for an assurance of his disposition to protect Protestants in Mexico, President Lerdo said:

"That the constitution of Mexico guarantees in the most absolute and unreserved manner the tolerance and protection of all religious opinions. That although the fanaticism of other forms of religion might sometimes excite popular disturbances against Protestants, he was sure that the opinion of all the enlightened classes of society is ardently in favor of complete toleration, and that he will answer for the conduct of all the authorities depending directly upon the Federal Government. That in addition to the constitutional obligation to protect religious liberty, the government takes pleasure in stating that the teachers of the Protestant doctrine in Mexico have

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distinguished themselves by their deportment as law-abiding citizens, without a single instance of the contrary having come to his knowledge. That their labors have uniformly tended to the enlightenment of the public, discarding sectarian disputes and limiting themselves to the propagation of doctrines of sound morality and practical religion. That the government will not only use its utmost diligence to punish all infractions of religious liberty, but is earnestly desirous that the Protestant teachers should enable it to take efficient measures for the prevention of such abuses whenever there may be ground to apprehend their occurrence. That he is pleased to make the acquaintance of the gentlemen who have conscientiously and laboriously devoted themselves to an object of great public utility."

No. 292.

Mr. Nelson to Mr. Fish.

No. 734.] LEGATION OF THE UNITED STATES,
Mexico, May 1, 1873. (Received May 14.)

SIR: During the past month the campaign against the insurgents of Tepic has been vigorously and successfully prosecuted. The principal officers formerly subordinate to Lozada have not only laid down their arms to the government, but have taken part against their recent leader. The latter, after the occupation of Tepic, retired with but two or three thousand followers to the almost inaccessible fastnesses of the Sierra de Alica, where he expected to be able to resist all attacks until some new combination with revolutionary elements elsewhere might enable him to resume the offensive and regain his former unlimited ascendency over the Indians of that region. But the government forces under General Ceballos frustrated this calculation, penetrating to his mountain retreat, and driving him successively with great loss from his best positions. This insurrection, which at one time threatened serious consequences for the republic, is now reduced to a few hundred desperadoes, whose only object is to assure their personal safety.

Public opinion has been much excited for two or three months about the arrival of some scores of European Jesuits, who, in consequence of late legislation against them in Germany and Italy, have established themselves in Mexico, where some of them have devoted themselves to public instructions and others have dispersed through several States as missionaries. A portion of the press has violently denounced them, calling upon the government to expel them from the republic as "pernicious foreigners," by virtue of a long-standing law giving discretionary faculties for that purpose to the executive. The government has manifested that it will take no action against the Jesuits as long as they do not render it necessary by systematic disregard of the laws, and this decision is approved by the majority of the press. Although a proposition has been presented to Congress for their expulsion, seconded by several legislatures, it is not probable that any action will be taken at present, and their permanence in the republic will depend upon the prudence of their conduct.

Congress has been chiefly occupied with the annual discussion of the appropriation bills. The bill presented by the committee on ways and means having cut down the government estimate by several millions, the debate has been energetic, with probabilities in favor of the government. Certain constitutional reforms, proposed years ago by President Juarez, have also received desultory discussion without much chance of their being definitely disposed of during the present session. A new tariff has been proposed by a committee of financiers appointed for that purpose by the President.

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A subsidy of $5,000 per kilometer has been voted to a proposed railway of forty kilometers in length, to connect the Vera Cruz railway with the celebrated mining district of Pachuca.

The late President Benito Juarez has been declared by Congress "Benemerito," or well-deserving of his country in a heroic degree, and his name is to be inscribed in golden letters in the hall of Congress. The anniversaries of his birth and his death are to be appropriately celebrated, and in this connection, the same honor has been decreed to the "Father of his Country," the priest Hidalgo, who inaugurated the war of independence in 1810. The executive is directed to spend $50,000 in the erection of a national monument to Juarez; his children are granted pensions of $3,000 each, and a premium of $2,000 is to be paid for the best biography of Juarez presented within six months.

I have, &c.,

THOMAS H. NELSON.

No. 293.

Mr. Nelson to Mr. Fish.

No. 738.] LEGATION OF THE UNITED STATES,
Mexico, May 17, 1873. (Received June 4.)

SIR: Among several important acts of Congress passed since my last general dispatch, I have to inform you that the so-called "laws of reform" issued by President Jaurez at Vera Cruz in 1859 and 1860, which effected the nationalization of church property and the separation of church and state in Mexico, have been converted into amendments to the federal constitution a few days since. Already the legislatures of five States have ratified them, and there can be no doubt that the remaining States will speedily imitate their example.

A law of Congress which permitted, under certain conditions, the processions and other public religious ceremonies of the Catholic Church has been repealed, and those ceremonies must hereafter be confined to the interior of the churches.

The law for the summary punishment of kidnapers has been again extended for the term of one year.

Congress has declared Mr. José Maria Iglesias duly elected chief justice of the supreme court, and Messrs. José M. Lozano and Manuel Castañeda y Ñajera associate justices. All these gentlemen took their oaths of office yesterday.

Owing to the press of business before Congress, it is not probable that the appropriation bill now under discussion can be fully considered and voted during the few remaining days of the present session. In such case, the precedent of the last two years will doubtless be imitated, *i. e.*, to leave in force the estimates of the fiscal year 1870–'71, with a few additions and suppressions.

Popular disturbances against Protestants have lately occurred in Guadalajara, and in two or three towns of the State of Mexico, resulting in the latter cases in bloodshed.

The supreme court has decided against Messrs. Kelly & Co., of Mazatlan, in the matter of the double payment of duties, concerning which your Department, at the request of the English government, instructed me to use my friendly offices.

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The insurgent Lozada, with his few remaining troops, has been repeatedly defeated, and his movement reduced to complete insignificance.

I have, &c.,

THOMAS H. NELSON.

No. 294.

Mr. Nelson to Mr. Fish.

No. 743.] LEGATION OF THE UNITED STATES,
Mexico, June 7, 1873. (Received June 25.)

SIR: I herewith inclose a translation of the addresses delivered at the closing of the last session of the sixth Constitutional Congress, on the 31st ultimo, by President Lerdo and the President of Congress.

I have, &c.,

THOMAS H. NELSON.

[Inclosure 1.—Translation.]

President Lerdo's address to the Mexican Congress at the closing of its sessions, 31 May, 1873.

CITIZEN DEPUTIES: In this, your last legislative term, which ends to-day, you have given new proofs of your enlightened patriotism. As in political questions, so in administrative affairs, your resolutions have been inspired by a laudable zeal for the welfare of the republic.

The faithful interpreter of public opinion, Congress has elevated the law of reform to the category of constitutional amendments. By costly sacrifices the people won these great principles to make them a part of our institutions. They have regenerated our society, facilitating moral and material progress, which tend to the consolidation of peace with all its attendant inestimable benefits.

The honors decreed to the memory of Hidalgo and of Juarez are the just tributes of public gratitude. It was an act worthy of the representatives of the people to honor the great chiefs of independence and of reform in a manner so well merited by their eminent services.

The approbation by Congress of the convention which renews the convention of the fourth of July, 1868, with the United States of America, will enable the mixed commission, in the course of the two years now stipulated, to examine and resolve the pending claims, thereby putting an end to these subjects of discussion and of difficulties. The Mexican commissioner will start for his post in the course of a few days, in order that the commission may be able immediately to continue its important labors.

In conformity with the *convocatoria* already issued, the elections for the seventh Congress of the union will be effected in due course, as also of the magistrates for the supreme court of justice. These elections shall be conducted in complete accord with the law, so that the Mexican people may select with perfect liberty the persons who merit their confidence to fill these high positions.

The continuance for a further period of the law which has so effectually contributed to check the career of evil-doers will serve to guarantee personal security, which is the first duty to society.

Among the new dispositions tending to general improvements proposed in the annual budget, that which refers to political organization and public instruction in the Territory of Lower California, especially confided to the protection of the federal authority, is worthy of attention.

The railway from Pachuca to Ometusco, just subventioned by Congress, will unite the state of Hidalgo with the Vera Cruz road, thereby giving a greater activity to the movement of its rich agricultural and mineral products.

The construction, which has also been decreed, of a railway from Puebla to Matamoras Izucar, will be productive of great benefits to the agricultural interests of the southern part of that State, as also to an extensive portion of the States of Guerrero and Morelos. This important work will develop interior circulation, and tend also to facilitate the exportation of their tropical products. This road will be a prolific source of wealth, and possibly the beginning of an interoceanic line of communication.

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In accord with the desire of Congress, the executive entertains a lively anxiety to facilitate the prompt construction of a railway to the interior. Its immense utility in developing all the elements of our agricultural and mineral wealth is self-evident. With this profound conviction, the executive has desired that in a concession for a work of this great importance its prompt commencement and the most favorable basis for its successful termination should be reconciled, at once combining the legitimate interest of the grantees with the public interests of the nation generally, as well as with those of the States in particular which the road may unite. The executive has already pointed out the inconveniences which, in its judgment, the basis of a certain project might possibly entail, and has also submitted to Congress another project, the bases of which are deemed acceptable. When the representatives of the people shall have resolved the construction of this great work, well worthy as it is of all preference, the executive on its part will tender its most effective co-operation.

With regard to the useful work of daily extending our telegraph lines, the wires and necessary apparatus for the continuation of the Chilpancingo line to Acapulco have been ordered from abroad and are in that port. With this line in operation, together with that to Mazatlan, the government will have two direct lines of communication with the Pacific coast.

The payment of the civil and military lists has been continued with all regularity. With reference to the loan contracted in August of last year, the monthly interest has been duly met, and nearly one-half of the principal has been paid.

It is scarcely four months since the rebels of Tepic, emboldened by the impunity of many years, organized three simultaneous invasions of the States of Sinaloa, Zacatecas, and Jalisco, advancing in the latter to the very gates of Guadalajara. Promptly hurled back, the campaign was carried into the very heart of Tepic itself, and into the very Sierra of Nayarit, with the most successful results. The nation has had another proof of the fact that the time has indeed passed away when such risings as this, which have caused in the past the greatest evils, can be attempted with any prospect of success. The brave and loyal soldiers of the national army have, in every encounter, wrested victory from the rebels, whose chief is either in hiding or a fugitive. Thus the executive may assume the satisfaction of announcing that, at this moment, there does not exist, through the length and breadth of our territory, a single armed band in hostility to law and authority, and that the entire republic is enjoying the benefits of peace.

The sixth constitutional Congress having thus terminated its mission, you can return to your houses, citizen deputies, with the satisfaction of having proved worthy of the confidence vested in you by the Mexican people. Receive my felicitations, with my most fervent wishes for the national prosperity.

[Inclosure 2.—Translation.]

Reply of the President of the Mexican Congress to the closing address of President Lerdo.

CITIZEN PRESIDENT: The renewal of the public authorities, established as an essential principle of our fundamental institutions, is doubtless one of the most salutary guarantees which modern democracy has won for the benefit of the people and of society. The obedience which is due to this precept imposes the duty upon the sixth constitutional Congress to close to-day the last term of the second year of its ordinary sessions.

The deputies would fain wish that their labors might have corresponded satisfactorily to their noble desires, and to the public necessities which demand the prosperity of our country. Nevertheless, all that it has been possible to do has been done, if we take into consideration the various crises through which the republic has passed, and the extremely difficult situation in which political parties were left, owing to the electoral struggle and to the death of the illustrious Juarez.

There were moments when it was feared that the majority of the house would not follow a course in accordance with that of the executive, thus planting obstacles and difficulties which would embarrass the administration and render the discussions of this assembly useless and futile. Fortunately a feeling of noble patriotism, inspired by the wise and prudent policy of the executive, soon prevailed in all minds, and the national representation, mindful of its duty, has known at last how to correspond to the legitimate hopes of the people.

Thanks to this, it has been able to issue laws in the political, social, and administrative order, which are of transcendental and beneficial consequences to the republic.

The renewal of the treaty entered into with the United States of the North, for the purpose of examining and resolving the claims pending between the citizens of that country and of ours, is of the greatest importance, not only because it makes evident and assures the sincere and cordial relations which we have with that people, but also

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because it fosters the hope that right and reason shall predominate in the world, and that cannon and bayonets shall no longer be the arbiters of the differences which arise between nations.

The great interests created by the laws of reform, already consolidated by the blood and martyrdom of a thousand illustrious victims, had to call the attention of Congress, in order to secure their establishment for the present and for the future.

It may be considered as an actual fact that the just and philosophical principles on which the laws of reform are founded are under the sacred protection of our fundamental code, and that they will ere long form a part of it, through the solemn sanction of this assembly and of the legislatures of all the States.

The sovereignty of the people would be but a mockery did not the electoral law insure free suffrage for all our citizens. The house, being imbued with this idea, upon issuing the call for the election of the forthcoming Congress and magistrates of the supreme court of justice, sustained a long and ample discussion; and, upon revising the organic laws at present in force with regard to the matter, introduced some wise modifications, in order to secure to the utmost free suffrage, and to prevent the direct or indirect influence of the authorities from interfering with the public vote. Congress well knows that all the foresight of the legislator is sometimes rendered insufficient by human malice; but it confides in the great virtues of the Mexican people, and in the profound respect which the chief of the executive has practically manifested for public suffrage, and trusts that henceforward the renewal of the legislative and judicial authorities, as the result of a free and spontaneous election, will be firmly secured.

All these benefits disappear when society endangers persons and interests. For this reason, notwithstanding the repugnance which all the members of the chamber feel at enacting exceptional laws, which arise from circumstances, sacrificing the individual for the common good, it has found itself under the hard necessity of proroguing the law respecting kidnapers, not so much to castigate that horrifying crime, which is, fortunately, disappearing, but that the law may be respected, and extinguish forever in the republic even the intention of committing the crime.

The question most difficult of solution is doubtless that of the estimate of ingress and egress. The constituent assembly did right in giving its discussion preference in the present period of sessions; and although it has not been possible to sanction, for want of time to study all the reforms and modifications which experience and practice have pointed out, it is undeniable that in this respect advance is made each year, and the time is not distant when without new sacrifices on the part of the people, and by force of economy and morality, the two estimates will be perfectly balanced.

Notwithstanding the limited receipts of our revenue, Congress has not shown itself indifferent to the national sentiment in favor of material improvements; and if it has not achieved all that was needed, it has at least decreed branch lines of the vastest importance. One of these will unite the State of Hidalgo with the Vera Cruz Railway, and the other will connect the city of Puebla with Matamoros Izucar. The result of the construction of these roads cannot be other than the development of mining, agriculture, and commerce. Both roads will contribute powerfully to the rapid expansion of our national wealth, and ultimately to the equalization of the value of our exports of metal and produce with the value of our imports from abroad.

Unfortunately Congress has not been able to obtain the immediate commencement of a railway which shall bring the two oceans into communication, thereby giving new vigor and activity to all the States of the interior of the republic, and obliging the commerce of all the nations with Asia, by a natural force, to become tributary to us. The project which was submitted to its study and deliberation entailed a change which has not been generalized in the world; and this produced a want of confidence as to its practical results, and as to its sufficiency to realize the grand purpose for which it was designed. Notwithstanding this, however, especial attention was given to the railway question, in order to satisfy the public anxiety in the matter, but it was found impossible to settle it definitely for want of time for its study and discussion. The nation may rest in tranquillity, because this improvement is supported by the public conscience, and when a people take up an idea, its realization is safe, notwithstanding all the obstacles that present themselves. The telegraph is daily extending throughout the republic, and but little now remains to enable the most insignificant of the villages of our extensive territory to enjoy this benefit of modern civilization.

The national representatives have observed with pleasure the regularity of the payments in all the branches of the administration, because this speaks very highly in favor of the administrative order, of the morality and purity with which the government distributes the public funds. But what has most pleased the representatives of the people is assuredly the efficacious punctuality with which the compromises contracted by the loan of last year have been fulfilled, as it is thus that confidence will be revived, the country will strengthen its credit, and consequently will be able to dispose of more funds in order to satisfy its necessities.

The happy and complete result of the costly campaign against Tepic is an omen that the republic is at peace and that its future will be all progress and prosperity.

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All glory and acknowledgment to the republicans and valiant chiefs, officers, and soldiers who, conquering by their splendid triumphs the laurel of victory which crowns their brows, have secured a permanent peace for the republic.

Permit me to recall the words with which the president of Congress concluded his speech last year: "The sixth Congress, on closing its sessions to-day, ardently prays that on the arrival of the new term we may in this place salute peace and the establishment of constitutional order throughout the republic."

Providence has crowned with the most brilliant success the fervent desires of the sincerest patriotism. Never has the nation presented more favorable conditions. Never has peace been more complete. I congratulate you, citizen President, in the name of the republic, for this transcendant blessing.

We return tranquilly to our homes, if not satisfied with our labors and with having fulfilled our duty as representatives of the people, at all events, under the profound conviction that the country marches toward its prosperous and happy destiny on the road of progress and liberty.

No. 295.

Mr. Foster to Mr. Fish.

No. 6.] LEGATION OF THE UNITED STATES,
Mexico, June 28, 1873. (Received July 15.)

SIR: On the 30th of May last, Mr. Blas Balcarcel, the minister of public works, transmitted to the Congress of the Union a contract agreed upon between the executive and Mr. Edward L. Plumb, as the representative of the International Railroad Company of Texas, for the construction of an extensive system of railway lines in the republic of Mexico.

The contract contemplates the construction of a railroad, of the gauge of four feet eight and one-half inches, from the City of Mexico to some point on the Pacific Ocean, between the ports of Manzanillo and Mazatlan, by way of Lagos, or such other point as may be deemed most feasible after survey, connecting with the City of Mexico, by the main line or branches, the cities of Querétaro, Celàya, Salamanca, Morelia, Guanajuato, Silao, Leon, Lagos, and Guadalajara, and also of a line from the City of Mexico via Lagos, or such other point as may be deemed most feasible after survey, to a point on the Rio Grande del Norte, to form a junction with the International Railroad of Texas, connecting with the City of Mexico, by the main line or branches, the cities of Aguas Calientes, Zacatecas, Durango, San Luis Potosi, Saltillo, and Monterey. The estimated distance of the entire system of main lines and branches exceeds sixteen hundred miles.

By the terms of the contract the work is to be commenced at the City of Mexico within nine months from the time the contract shall become a law by the approval of Congress; the work on the Pacific end of the line to be commenced immediately after the necessary surveys and determination of the point of terminus; and the work on the Rio Grande end to be commenced immediately after the completion of the International Railroad of Texas to the said river. At least one hundred kilometers (62.14 miles) are required to be constructed each year on the main line to the Pacific, and the entire work is to be completed within ten years.

The company shall not be considered as organized under this contract until $2,000,000 of the capital stock has been subscribed, and ten per cent. of the same paid up in cash. Within eight months from the taking effect of the law, the company is required to give a bond of $400,000, before the contract shall be considered as accepted.

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The Mexican government engages to pay the company a subvention of $9,000 per kilometer, in custom-house certificates, to be issued as the work progresses, the receipt of which certificates is made compulsory at all the custom-houses of the republic for eight per cent. of all duties.

The company is granted the right of way, various valuable privileges on the public lands through and adjoining which the railroad passes, the admission through the custom-houses free of all duties of articles of construction and use, exemption from taxation for fifty years, and other valuable privileges, and the franchises usual and necessary for such companies.

The contract, of which the foregoing are some of the main provisions, will require the ratification of Congress in order to give it validity. It was presented to the last Congress on the day before its adjournment, and will be called up at the opening of the new Congress, which meets in September next. As it has the indorsement of the executive, it is presumed that it will receive the approval of the Congress.

I inclose a printed copy of said contract and the papers accompanying its transmission to the Mexican Congress.

I am, &c.,

JOHN W. FOSTER.

The minister of public works to the Mexican Congress.

[Inclosure A.—Translation.—Extract from the Diario Oficial, October 6, 1872.]

DEPARTMENT OF PUBLIC WORKS, COLONIZATION, INDUSTRY, AND COMMERCE.
Section 3d, *October* 5, 1872.

I have the honor of inclosing to you herewith the memorial addressed to this department by Mr. Edward Lee Plumb, representative of the International Railroad Company, in which he asks that the project he presents relative to the construction of a railroad, as also the documents annexed thereto, be transmitted by the executive to congress, in order that the same may be submitted to its high deliberation.

The project of Mr. Plumb, considered as a whole, may be said to embrace one of the grandest works that has ever been presented in Mexico in the branch of material improvements. It is therefore an affair of great interest and of much importance under whatever aspect it is examined, and is well worthy the attention of Congress.

In fact, to continue the railroad as is proposed in the project referred to, from the City of Mexico toward the States of the interior, so that passing by Lagos it will terminate at a point on the coast of the Pacific, and to construct also a railway from Lagos to a point on the Rio Bravo, is to unseal the fountains from which the prosperity of the republic will spring forth, should the realization of such a work be effected; for the advantageous geographical position in which Mexico is placed, having the Atlantic Ocean on the east and the Pacific Ocean on the west, will contribute to give a powerful impulse and to facilitate by means of the railroad the commerce of Europe on the side of the Gulf and that of Asia on the side of the Pacific, and this frequent and constant traffic established between both coasts, not only will carry from the one to the other foreign effects and national products, but will disseminate the benefits of this prodigious activity in all of the States through which the line of the railway will pass.

The inconveniences of the want of good highways being thus removed, distances extraordinarily diminished, the cost of transportation considerably reduced, and a vast market opened, agriculture, mining, industry, and commerce would have a new being, and in their development would reach a point that to-day can hardly be conceived.

With respect to the railroad from Lagos to the Rio Bravo, it must be at once considered as the closest bond of union between the frontier States and those of the center as the principal, and perhaps at present the only means by which our deserts of the north can be populated; and as the most expeditious means by which the frontier States can speedily participate in the wonderful progress procured by railroads, which will be the beginning of the regeneration of those regions, among whose rich productions may be counted cotton and the vine, products which there is no doubt will form

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very important branches of domestic and foreign commerce. But the railroad from Lagos to the Rio Bravo, forming a connection with the railroads of the United States, has a grand future, and from the fact that the topography of the region through which it has to pass is very favorable, it may be preferred as the line of communication between the States of the East and those of the West of the American Union.

Besides the preceding considerations which relate in general to the project of Mr. Plumb, there are others which from their importance merit that special mention should be made of them.

The first is the circumstance that the company which solicits the concession to which the project referred to relates is already organized and has a railroad in construction in the United States, which is a guarantee that the work it proposes will be carried out.

The second is that the sums remaining due in case the subvention is not covered by the product of the eight per cent. of import duties assigned for that purpose, will not bear interest, and by the suppression of such interest there will result in favor of the treasury an economy of several millions of dollars.

The third consideration is based upon the fact that there is fixed as the maximum of the subvention, the extent of 2,275 kilometers, including the main lines and the branches that may be constructed to place them in communication with various States of the republic. In this manner there is known beforehand in a well-defined and determined manner the total amount that the national treasury will have to pay as subvention to the company obtaining the concession.

There should be taken into account as the fourth consideration, the obligation undertaken by the company of commencing the work of construction from the city of Mexico toward the interior within nine months after the termination of the railroad from Vera Cruz, the company binding itself also to complete and place in operation 80 kilometers within fifteen months after the first term; in this manner, as the work of the Mexican Railroad has to be finished by the last day of December of the present year, the work upon the railroad in the direction of Queretaro would be commenced in the month of October, 1873.

In view of the reasons which I have expressed, the President believes that the project to which I have referred is worthy of being taken into consideration by Congress, which, with its well known enlightenment, will duly examine it in order to take such resolution with regard thereto as may be most convenient to the national interests; but as the term prescribed for the company to begin work from the city of Mexico is very short, the President recommends to Congress that it may be pleased to resolve in the present period of sessions what it may deem best with respect to the concession solicited by Mr. Plumb.

I repeat to you with this motive the assurances of my respect.

Independence and liberty! Mexico, October 5, 1872.

BALCARCEL.

To the DEPUTIES,
Secretaries of the Congress of the Union, present.

Mr. Plumb to the department of public works of the Mexican Republic.

[Translation.]

MEMORIAL.

MEXICO, *September* 26, 1872.

To the Minister of Public Works:

The undersigned, in representation of the International Railroad Company before your excellency, has the honor respectfully to state:

That the said company, composed chiefly of capitalists of New York, organized under an act of the legislature of the State of Texas passed August 5, 1870, is now actively engaged in constructing a railroad across the State of Texas from Fulton, on the border of the State of Arkansas, by way of the cities of Austin and San Antonio, to the Rio Bravo del Norte, on the frontier of Mexico, a distance of about 530 miles.

This railroad, from its geographical position, has to become the principal line of communication between the republic of Mexico and the United States.

At Fulton, according to the terms of the company's charter, its road has to connect with the Cairo and Fulton Railroad, now being rapidly constructed, and which, connecting with the Saint Louis and Iron Mountain Railroad, under the same management, will extend direct communication on the one hand to Cairo, at the junction of the Ohio and Mississippi Rivers, and on the other will unite Fulton by a direct line

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of 480 miles with the city of Saint Louis, one of the most important centers of commerce in the valley of the Mississippi.

By these means communication will be established from the border of Mexico for a distance in almost a direct line of over one thousand miles, reaching nearly to the center of the most populated portion of the United States.

From Cairo the Illinois Central Railroad, and from Saint Louis other lines, carry the connection to Chicago; and from Memphis, Cairo, and Saint Louis various lines of railroad complete communication to Cincinnati, Washington, Philadelphia, and New York.

The International Company within the first two years of its existence, viz, up to the 5th of August last, has completed and placed in operation one hundred and ten miles of its road, and has seventy miles more so far advanced that they will be placed in operation by the end of the present year.

Within the year 1873 its road will be completed and placed in operation from Fulton to Austin, a distance of about three hundred miles.

There has also been consolidated with the International Company the Houston and Great Northern Railroad Company, which has one hundred and sixty miles of road completed and in operation, and sixty-six miles more which will be finished by the 1st of December next.

The two joint companies will have on the 1st of January, 1873, a total of four hundred and six miles of road completed and in operation.

The Cairo and Fulton Company has announced that in the coming month of October trains will be running from Saint Louis to Little Rock, about midway of that line, and the remaining portion between Little Rock and Fulton will be completed and placed in operation in 1873.

In 1874 the International Railroad will reach San Antonio, a distance of about four hundred miles, and direct communication will thus be opened from that point to all parts of the United States.

The final location of that portion of the International Company's road lying between San Antonio and the Rio Bravo del Norte cannot well be made until it shall be ascertained by what route, and to what point on that river, lines of railroad in Mexico, extending from the city of Mexico and from the Pacific coast, can most feasibly be brought down from the central table-land to the valley of the Rio Bravo, and at what point on that river connection between the railroads of the two republics can most advantageously be made.

By the terms of its charter from the State of Texas the company is authorized to unite with any other railroad company, within or without the State, and also to operate its road in connection or consolidation with any other company. It is further contemplated in its charter that the company may undertake the continuation of its railroad to the city of Mexico and to the Pacific coast in case the government of Mexico shall grant the necessary authorization therefor.

The International Railroad Company is very greatly interested in the opening of communication with the republic of Mexico on account of the increased business that would accrue to its road. This interest is also participated in by the railroad companies whose roads form the line of connection from Fulton to Cairo, Saint Louis, Chicago, Cincinnati, Philadelphia, and New York.

These considerations have led the International Company to take an early interest in ascertaining what probabilities there may be of the construction of any road in Mexico with which its road in Texas can connect, and in default of the probable construction of such a line by others, to consider the subject of itself undertaking the work, providing suitable arrangements for that purpose can be made with the Mexican government.

With this view it was determined by the board of directors of the company, as early as August, 1871, to send an agent to Mexico, and, in pursuance of arrangements made with the undersigned to act in that capacity, he arrived in this city on the 1st of September of last year.

Since that date the Executive of the republic has been fully informed with regard to the company and the projects it has thus been led to entertain, and the bases of proposals for the construction of the work herein indicated have been under discussion as constantly as circumstances would permit, with a view to the submission of the same at a proper moment to the consideration and determination of the Federal Congress.

Before submitting such propositions in a formal manner, the undersigned has desired to have the opportunity of conferring fully with the Executive, in order to receive his advice and suggestions, and that the proposals might be made to conform to the practices of Mexican legislation, and, so far as practicable, to the views of the government with regard to the form and manner of the subvention that might be deemed most convenient in view of the actual circumstances of the country.

The first idea of the company was naturally to make arrangements simply for the extension of its road into Mexico from the frontier of the Rio Bravo on completing its road in Texas to that point.

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But as any enterprise of this character has to be based in Mexico, as everywhere else, upon government aid to the extent of a portion of a cost of the work, the position has been very reasonably taken by the Executive government, since the first conferences of the undersigned with it, that an indispensable condition of such aid must be the commencement of the work at this capital.

This condition having been communicated to the company, it has consented to assume the obligation of commencing the work at this city, and also to prosecute the same from the Pacific coast, on the determination of the point which has to serve as the termination of the railroad on that coast.

The early completion of the railroad from Vera Cruz to the City of Mexico, one of the colossal works of this continent, and which reflects the highest credit upon the Mexican government and people, now renders practicable what before would have been impossible; that is to say, the undertaking, by responsible parties, of the construction of long lines of railroad from this city toward the interior of the republic.

To determine the question of the possibility of the construction of a line of railroad from this city to the Pacific coast by way of Guadalajara, and from some intermediate point, as Lagos, to the Rio Bravo del Norte, no surveys are necessary.

The topography of the country is too well known to admit of doubt upon this point.

The general location of the line appears also to be determined beforehand by the situation of the principal populations of the interior.

The general interests of the country, its local interests, and the interests of the enterprise all unite in requiring that the main trunk line of railroad from this city to the Pacific, and that from this city to the Rio Bravo del Norte, shall place in communication with the capital of the republic the greatest practicable number of capitals of States and principal populations of the interior.

The question of the direction of the line has evidently to be subordinated to this last-mentioned most important consideration.

Without the necessity, therefore, of previous surveys to determine the question, it appears to be evident that the main trunk line of railroad from this city should unite with the capital of the republic the cities of Querétaro, Celaya, Salamanca, Irapuato, Guanajuato, Silao, Leon, and Lagos. A branch to Morelia will be a necessary consequence of this line.

The main line should then proceed, by way of Guadalajara, to such port on the coast of the Pacific as may be found to be the most desirable.

From Lagos, or such other intermediate point as may be determined upon, the line to the north should proceed by Aguascalientes and Zacatecas, or San Luis, to Saltillo, and thence by Monterey or Monclova to the Rio Bravo del Norte.

With the construction of a main trunk line of this character the immediate necessities of the country would appear to be in a very great measure satisfied.

The railroad which the International Company is now constructing in Texas is a first-class road, of four feet eight and one half inches gauge, the same as all of the Pacific railroads, and as that of the railroad from Vera Cruz to the City of Mexico, and is not surpassed in excellence of construction by any railroad in the United States.

To facilitate commercial movement between the two countries, and for opening of proper communication between the capitals of the two great republics of this continent, it would appear to be desirable that the road to be constructed from the City of Mexico, and from the Pacific coast of Mexico, to the Rio Bravo, should be of the same character; that is, a road of the first class.

It appears also to be equally desirable that the railroad to be extended from the City of Mexico to the Pacific coast, being the completion of the line from Vera Cruz to the Pacific, should be of the same character as that from Vera Cruz to the City of Mexico, namely, a railroad of the first class.

In this manner the line from the capital of the republic to Lagos, or other central point, would serve the double purpose of forming at the same time part of the line from Vera Cruz to the Pacific, and part of the line to the United States; while the line from Lagos, or other central point, by way of Guadalajara to the Pacific, would complete the railroad from Vera Cruz to the Pacific, and would at the same time serve as part of a continental line from the Pacific to New York. The line from Lagos to the Rio Bravo would also form a part not only of a main line from the City of Mexico to the United States, but at the same time a part of a Pacific railroad that, starting from New York and passing by the capital and several of the principal cities of the United States, and a considerable number of the cities and important towns of Mexico, would terminate at a Mexican port on the Pacific, and would be the shortest of the great railroads from New York to the Pacific which it is possible to construct.

The lines thus indicated from the City of Mexico to the Pacific and to the Rio Bravo would have also the essential advantage of uniting with the capital of the republic the capitals of not less than nine important States of the federation, and at the same time of opening a vast section of the interior of the country to free access for the export of its valuable products by way of Vera Cruz to the markets of Europe, by way of the Pacific to those of California and China, and by way of the Rio Bravo to those of every part of the United States.

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The United States now annually consume of sugar over 500,000 tons, of the value of upward of $70,000,000, of which only one-tenth part is produced in that country.

Of coffee, the annual consumption in the United States has reached over 150,000 tons, of the value of $36,000,000, and of this not one pound is produced in the United States.

Both of these products, so important and necessary, and of daily consumption, are now procured mainly from Cuba and from Brazil, where they are obtained by means of the labor of slaves.

By this commerce, so vast in extent, the United States are forced to contribute indirectly to maintain slavery in those two countries. It is therefore to be desired that these products should be provided by free labor.

Mexico produces coffee of a quality that is not surpassed by any other in the world. Her coffee-growing regions, as well on the coast of the Pacific as on that of the Gulf, are capable of supplying all that the United States consume, and with direct means of communication her geographical position would secure to her almost the monopoly of production for that country. Coffee is now carried by steamer from Costa Rica to San Francisco, and thence by railroad to Chicago and Saint Louis. The distance, in a direct line on the map, from Chicago to San Francisco, is precisely the same as from Chicago to Manzanillo. From Saint Louis to San Blas the distance is considerably less. Yet, the freight on coffee by railroad from San Francisco to Chicago, a distance of 924 leagues, is but 2½ cents per pound, or $10 per cargo of 16 arrobas, (400 pounds.)

For the production of sugar Mexico has regions especially adapted and of great extent. In a marked degree is this the case in the States of Jalisco, Michoacan, and Colima.

The supply to the United States of only a portion of the immense quantity now required for consumption there, and which is annually increasing, would furnish to Mexico a most important and lucrative commerce.

A direct line of railroad from the Pacific coast of Mexico which will pass by the principal centers of population of the United States, and along the whole of which line consumers would be reached, would give to Mexico as a source of supply of these two articles of prime necessity advantages against which no other country could compete.

There is an almost unlimited list of other articles which would enter into this valuable commerce, among which the shipment by railroad of cattle from the States of Coahuila, Nuevo Leon, Tamaulipas, San Luis Potosi, Zacatecas, and Durango, and of wool, skins, and mineral products, are especially to be mentioned.

The city of Mexico is destined to become the Paris of America. Its unrivalled climate and beautiful scenery; the history, so full of interest and romance of this favored land, as yet a *tierra incognito* to the tourist, and the era of peace and prosperity now dawning upon the republic, will attract hither thousands and tens of thousands of travelers from every country when once the most ancient and interesting capital of this continent can be reached by a land journey free from the perils of the coast, and attended by all the conveniences which modern travel now receives and demands.

To escape the heat of the summer and the cold of the winter, both in the United States and in Europe, thousands of persons of wealth and leisure will be led to seek the perpetual spring of Mexico, and few of the travelers who come from Europe to visit the United States will return without having first extended their journey to Mexico.

The advantages that, in this manner, will be obtained by the republic from the more just knowledge that will be formed of its people, the wealth that will thus be attracted to its capital, and the national prosperity that will certainly result from the immense exportation of the products of the country by means of their cheap and rapid transportation, not only to the markets of Europe, but also to those of the United States, are points that press strongly upon the attention, and that will, without doubt, merit the intelligent consideration of the national Congress in the discussion of this subject.

As the result of the conferences the undersigned has had the honor to have with the executive, and of the study he has been able to give to the subject during his residence here of now over a year, and of his correspondence with the company he represents, he has now the honor of submitting to your excellency the accompanying project, which contains the bases upon which the International Railroad Company is disposed to undertake the construction of the important work herein referred to.

The undersigned also incloses, with the greatest respect, the following documents relating to the organization of the company and its operations, and to the character in which it is represented by the undersigned.

These documents are as follows:

1. A certified copy of the charter granted to the International Railroad Company by the legislature of the State of Texas.

2. A certified copy of the reports presented to the governor of the State of Texas by the agents of the said State commissioned to examine the first fifty miles of railroad constructed by the company.

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3. Certificate of the secretary of the International Railroad Company of the payment of the first $2,000,000 of subscribed capital.
4. Letters of instructions from the president of the International Railroad Company to the undersigned.
5. Power of attorney from the International Railroad Company in favor of the undersigned.
6. Letter from the president *ad interim* of the company, giving information with reference to the work concluded in the first two years of the existence of the company.
7. Board of directors and officers of the International Railroad Company.
8. Board of directors and officers of the Houston and Great Northern Railroad Company.
9. Executive committee of the two associated companies.

In view of what has been stated, the undersigned respectfully solicits that your excellency will be pleased to place this memorial, and the documents which accompany it, before his excellency the President of the republic, in order that the chief magistrate, should he think proper to do so, may deign to submit the same, with such recommendation as he may deem proper, to the national Congress, for its wise determination.

E. L. PLUMB.

[Extract from the Diario Oficial, of December 18, 1872.—Translation.]

LAW AUTHORIZING THE EXECUTIVE TO ADJUST CONTRACTS FOR THE CONSTRUCTION OF RAILROADS.

DEPARTMENT OF PUBLIC WORKS, COLONIZATION, INDUSTRY, AND COMMERCE OF THE MEXICAN REPUBLIC, (Section 3.)

The constitutional President of the [republic has been pleased to address to me the following decree:

Sebastian Lerdo de Tejada, constitutional President of the United Mexican States, to the inhabitants of the same, be it known:

That the Congress of the Union has thought proper to decree the following:

The congress of the union decree:

Sole article. The executive shall receive all propositions that may be made to it with regard to the construction of railroads, and is hereby authorized to adjust with the parties interested the terms of contract relative thereto; which contracts shall be subject to the approbation of the legislative power.

Palace of the legislative power of the Union, Mexico, December 10, 1872.

N. LEMUS, *President.*
V. CASTAÑEDA Y NÁJERA, *Secretary.*
S. NIETO, *Secretary.*

Wherefore I order that this decree be printed, published, circulated, and that due compliance be given to it.

Dated in the palace of the national government of Mexico, December 10, 1872.

SEBASTIAN LERDO DE TEJADA.

To the citizen BLAS BALCARCEL,
Minister of Public Works, Colonization, Industry, and Commerce.

And I communicate the same to you for the consequent ends.
Independence and liberty.

BALCARCEL.

MEXICO, *December* 10, 1872.

The minister of the public works to the Mexican Congress.

[Extract from the "Diario Oficial," June, 1873.—Translation.]

DEPARTMENT OF PUBLIC WORKS, COLONIZATION, INDUSTRY, AND COMMERCE,
May 30, 1873.

SECTION 3. I had the honor of stating to Congress in a communication of the 19th inst., that the government would soon conclude with the representative of the International Railroad Company of Texas arrangements relative to the construction of the railroad which is to terminate on the coast of the Pacific. The government had

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already had occasion to examine the propositions of Mr. Plumb, when it transmitted them to Congress October 5, 1872, and having been subsequently authorized to receive proposals with reference to railroads it has again studied very closely the project referred to, in order to comply with the decree of December 10, 1872.

The contract which has just been concluded embraces two lines, the inter-oceanic and that which, beginning at some point on the former, will terminate at such place as may be most desirable on the frontier of the North. The first commencing at this capital, will pass by Querétaro, Guanajuato, Lagos, Guadalajara, Colima, and will terminate at the point which may be designated on the coast of the Pacific. A branch of this line will extend from Salamanca to Morelia, and another, commencing at Lagos, will pass by the cities of Aguas Calientes and Zacatecas, and be extended to Durango, which before was not included in the project, and finally the construction of a branch to Toluca has been stipulated in case the road that is now in process of construction shall not be completed.

The second line, which may be called the international, commencing at Lagos, will pass by San Luis Potosi, and the States of Coahuila and Nuevo Leon, and will reach the point that may be determined on the frontier of the North.

In this manner it has been provided that the two great lines, with their branches, will reach the centers of greatest population and commerce of the republic, in order that the general movement of traffic may attain the development required by the progress of the country. In addition to the advantages to be afforded by the inter-oceanic line, which, commencing at the port of Vera Cruz and terminating at another on the Pacific, will permit and facilitate the commerce of the western nations of Europe with San Francisco, and with points on the coast of the southern ocean, the international line will enable Mexico to obtain the benefits which belong to it from its geographical position. The important States of the South and of the East, of the neighboring republic, will find a natural outlet for their products, as the route to be traversed by their effects, when the line referred to shall be constructed, is shorter than any other, and also passes in our republic through regions not exposed to the rigors of climate which embarrass traffic in the zones of higher latitude, causing a paralyzation of business.

In order to facilitate mercantile transactions and relations of every kind between Mexico and the United States, it was necessary to look for the shortest road; and for this reason the line through the States of Coahuila and Nuevo Leon was adopted, which, compared with that which would have passed by Paso del Norte to connect afterward with American lines, affords an economy of three hundred leagues.

It was also necessary to bear in mind that, in order to assure the future of the Mexican line, the route adopted merits the preference, for the reason that it is to be united with the important railroads of Texas—the Cairo and Fulton and the Saint Louis and Iron Mountain Railroads, the Missouri, Kansas and Texas, and Houston and Great Northern.

The preceding considerations have decided the government to fix for the projected lines the same width as that of the railroad from Vera Cruz, and of those of the United States which have been mentioned, the great inconveniences resulting from a diversity of gauge being so well known that all countries are now seeking to unify their railroads in this respect; and with this system of construction the conditions required to meet the necessities of a great traffic are well assured.

The government has obtained for the country all the advantages possible in concluding the new arrangements; and although it did not obtain all that it desired, it secured important modifications, which Congress will be able to appreciate by comparing the new project with that which was transmitted to it on the 5th of October of last year, the most important being the following:

It was desirable to provide that the inter-oceanic line should be completed at least as rapidly as the work upon the international line should progress, and it has been so stipulated in the contract in an express and terminant manner.

The subvention has been reduced to nine thousand dollars per kilometer, in place of nine thousand five hundred dollars before assigned, it having also been stipulated in an explicit manner that the sums corresponding to the subvention are not to bear interest, a provision which the government deems very important.

It is not convenient that the natural desire of stimulating traffic should deprive the republic of the advantages of its position by conceding the transit of merchandise throughout the extent of its territory without deriving any advantage therefrom, and it has therefore been stipulated that the Mexican International Railway Company shall collect for account of the government a certain quota for each passenger and per ton of merchandise.

The executive devoted especial attention to the part relating to the tariff of freight and passage, as its provisions practically determine whether a work of this character will produce for the republic all the benefits which are to be expected in projecting it.

The tariff stipulated in the contract is as low as any that has been proposed to the

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government, and is in some points more favorable, with the advantage that the rates will be uniform for effects destined as well for interior commerce as for exportation.

It is easy to calculate, knowing approximately the distances that have to be traversed, that a charge of four cents per kilometer in first class and two and a half cents in second for passage, and seven cents in first class, five in second, and two and a half in the third per ton of merchandise are moderate and equitable rates.

It has also been stipulated, in order to afford due protection to Mexican agriculture, that cereals of all kinds shall be included in the third class, whatever may be the point of their destination.

And, finally, it has been provided that the rights and privileges stipulated in this concession cannot be transferred to any individual or company without the previous permission of the executive of the union.

The advantages which will result to the country from the realization of this work are so great, it will so develop its wealth, so increase the relations between all the States of the federation, and so assure the public peace and tranquillity, that the project merits the co-operation of the federal powers; for, although it is true that it imposes on the country sacrifices of importance, they will be compensated by the advantages that have been enumerated, which afford ground for the expectation of a prosperous future for the nation.

As these affairs are of the utmost gravity, on account of the amount of the subvention which has to be provided, since it is only by this means that the realization of such projects can be attained, the government trusts that Congress, with its well-known zeal and enlightenment, will examine all of the points embraced in the contract which has been concluded, and will take such determination as may be most advantageous for the republic.

In order that you may be pleased to submit the same to the approbation of Congress, I have the honor of inclosing to you the contract and the relative communications.

All of which I state to you by direction of the President, repeating to you the assurances of my respect.

Independence and liberty.

BALCARCEL.

To the DEPUTIES, *Secretaries of the Congress of the Union.*

Mr. Plumb to the Mexican minister of public works.

[Translation.]

MEXICO, *January* 16, 1873.

To the Minister of Public Works:

Referring to the communication I had the honor to address to you on the 26th of September last, in representation of the International Railroad Company of Texas, submitting proposals for the construction of a railroad from this capital to the Pacific Ocean and to the Rio Bravo del Norte, which proposals received the honor of being presented by the executive to the national Congress on the 5th of October last, permit me now to state:

That, in view of the general authorization that has been conceded to the executive by the law passed by the Congress of the union on the 10th of December last, with regard to the receiving of proposals and adjustment of contracts relating to the construction of railroads, I am prepared, and shall have pleasure to enter, whenever the attentions of the government may permit, upon conferences with reference to the proposals which I have already so submitted for the purpose of adjusting a contract, if it shall meet the views of the executive to do so, under the terms and for the object of the said law of the 10th of December last herein referred to.

I have, &c.,

E. L. PLUMB.

The minister of public works of Mexico to Mr. Plumb.

[Translation.]

DEPARTMENT OF PUBLIC WORKS, COLONIZATION, INDUSTRY, AND COMMERCE OF THE MEXICAN REPUBLIC, (SECTION 3,)
Mexico, February 12, 1873.

In view of the petition which, under date of the 16th of last month, was addressed by you to this department asking to enter into arrangements with the government for the purpose of adjusting a contract for the construction of a railroad from the capital

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to the Pacific Ocean and to the Rio Bravo, there have been asked from the permanent deputation of the Congress of the union the "expedientes" (documents) formed with reference to this affair.

This has now been received, and the supreme magistrate has therefore directed that I should state to you that you can take before this department such steps as may be convenient in order to arrive at the arrangement of the contract before mentioned, which has to be submitted to the approbation of Congress, in conformity with the provisions of the law of the 10th of December of last year.

Independence and liberty.

BALCARCEL.

Mr. Plumb to Mr. Balcarcel.

[Translation.]

MEXICO, *May* 17, 1873.

To the Minister of Public Works:

By the communications which were addressed in the month of February last to the representative of Mexico at Washington by the secretary of the International Railroad Company, the vice-president of the Cairo and Fulton and Saint Louis and Iron Mountain Railroad Companies, and the president of the Missouri, Kansas and Texas Railroad Company, the government was informed that the three last-mentioned companies, in addition to the Houston and Great Northern Railroad Company, have become associated with the International Company in joint interest in the proposals which, in the name and as the representative of the latter company, I had the honor, on the 26th of September last, to submit to the consideration of the Mexican government with regard to the construction of a line of railroad from this capital to the Pacific Ocean and to the Rio Bravo del Norte, there to connect with the International Railroad of Texas.

The time having arrived when it may be deemed necessary, in the judgment of the President, to conclude a definitive arrangement, under the authorization conceded to the executive by the law of the 10th of December last, for the purpose of submitting the same to the national Congress for its approval, it may be proper for me as the representative of the International Company, and I have now the honor formally to state, that the proposals herein referred to, and the contract which, in the name of the International Railroad Company may result therefrom, are in the associated and joint interest of that company and of the Missouri, Kansas and Texas Railroad Company, the Cairo and Fulton Railroad Company, the Saint Louis and Iron Mountain Railroad Company, and the Houston and Great Northern Railroad Company.

The five companies thus associated had in operation, on the 15th of March last, the following extent of first-class railroad, constructed and owned by them, which extent has since that date been further increased, viz:

	Miles.
The International and Houston and Great Northern Companies	432
The Missouri, Kansas and Texas Company	569
The Saint Louis and Iron Mountain Company	308
The Cairo and Fulton Company	160

(This latter company will have finished and placed in operation 140 miles more by the autumn of the present year.)

Total number of miles in operation on the 15th of March last belonging to the five companies, 1,490, or 2,398 kilometers.

It will be seen by a reference to the map that the lines of railroad belonging to these several companies form the most direct means of communication from the frontier of Mexico, near Laredo, to the principal centers of population and consumption in the United States, and each of the companies is, therefore, now, and will always be, interested in obtaining and stimulating a constant exchange of freight with Mexico.

For this reason they have a direct and legitimate interest in the speedy construction of the lines projected in Mexico, according to the propositions which have been submitted to the government in the name of the International Company, and it is to add to the certainty of the practical realization of the enterprise initiated by the said propositions that the present association of the companies herein named has been effected.

I have, &c.,

E. L. PLUMB

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Contract concluded between the department of public works of Mexico and the representative of the International Railroad Company of Texas.

[Translation.]

ARTICLE. 1. The International Railroad Company of Texas is hereby authorized to construct and operate a line of railroad and its corresponding telegraph, from the City of Mexico to the Pacific Ocean and to the Rio Bravo del Norte.

The line from the city of Mexico to the Pacific Ocean shall follow the direction which, according to the surveys of the company approved by the department of public works, may appear to be the most desirable to place the capital of the republic in communication, either by means of the main line or of the necessary branches, as nearly as may be practicable, with the cities of Queretaro, Celaya, Salamanca, Morelia, Toluca; if the line now under construction should not be completed, Guanajato, Silao, Leon, Lagos, and Guadalajara, and, in connection with the Vera Cruz Railroad, to form an interoceanic line from the Gulf of Mexico to the Pacific, which shall terminate at the port of San Blas, or at such other point on the coast of the Pacific, from the port of Manzanillo to that of Mazatlan, as, after the necessary surveys have been made, may be selected as the most desirable by the company, with the approval of the department of public works.

The line to the Rio Bravo del Norte (Rio Grande) shall commence on the line above mentioned, at the city of Lagos, or such other point as, according to the surveys of the company approved by the department of public works, may be found to be the most desirable, and shall follow the direction which, in conformity with the same requisites, may appear to be the most practicable to place the capital of the republic in communication, either by means of the main line or of the necessary branches, with the cities of Aguas Calientes, Zacatecas, Durango, San Luis Potosi, Saltillo, and Monterey, terminating on the Rio Bravo del Norte, at the point that may be the most convenient to form a connection with the International Railroad of Texas, which the said company is now constructing across the said State, and to establish a continuous line of connection from the city of Mexico, and from the Mexican coast of the Pacific, with the railroads of the United States.

ART. 2. The said company is hereby authorized to immediately commence the necessary surveys, which shall be at its own expense, in order to determine the location of the lines of railroad designated in the present law.

Before commencing the work of construction on the different sections of the line, there shall be remitted to the department of public works, for its approval, a copy of the maps of survey and of the plans of the location of the road.

The general survey of all of the line shall be concluded and the corresponding plan submitted to the department of public works for its approval, within the term of two years and a half, counted from the date of this law.

An engineer appointed by the executive and paid by the company may accompany each of the principal surveying parties of the said company; forty days' previous notice being given by the latter to the government of the time when the surveys are to be commenced; but the said surveys shall not be delayed nor considered incomplete by reason of the absence of the engineers to be appointed by the executive.

ART. 3. The work of construction on the main line of railroad from the City of Mexico to the Pacific shall commence within nine months counted from the date of this law; and within fifteen months, counted from the termination of the period stipulated for the commencement of the work of construction, there shall be completed at least 100 kilometers (62.14 miles) of railroad of the said line.

In each of the subsequent years there shall be constructed at least 120 kilometers, or 240 every two years, until the completion of all of the line of railroad to which this law refers.

Immediately after the conclusion of the necessary surveys and the determination of the point which has to serve as the terminus of the road on the Pacific, the work of construction shall also commence at the said point.

The work on the line from the Rio Brazos del Norte shall commence on the Mexican side of the said river immediately after the completion of the International Railroad of Texas to the Rio Bravo del Norte.

The work from the different points mentioned in this article shall be prosecuted in such manner that on the line from the City of Mexico to the Pacific there shall be constructed at least, in each year, or every two years, a number of kilometers equal to that which may be constructed on the line from the Rio Bravo to the point of junction with the preceding line, and which shall assure the completion of all of the line of the railroad from the City of Mexico to the Pacific Ocean, and from Lagos or other intermediate point to the Rio Bravo del Norte, within the term of ten years counted from the date of this law.

ART. 4. In case the company should complete the said railroad from the City of Mexico to the Pacific Ocean, and to the Rio Bravo del Norte, in a period of one year

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less than the stipulated term of ten years, the government will pay to the company, in the character of donation and as a premium, the sum of one hundred thousand dollars; if the road should be completed in two years less than the stipulated term, the premium shall be two hundred thousand dollars for each one of the two years; if it should be completed in three years less than the stipulated term, the premium shall be three hundred thousand dollars for each of the said three years; and if the road should be finished in four years less than the prescribed term, the premium that the government will pay to the company shall be four hundred thousand dollars for each of the said four years.

The said premiums shall be paid to the company in certificates of the same character as those which are to be issued in conformity with the terms of the present laws.

ART. 5. For the purpose of the construction, possession, and operation of the lines of railroad and telegraph designated in this law and under the provisions which in it are established, the said International Railroad Company of Texas obligates itself to organize in Mexico, the United States of America, or in Europe, a company to be denominated "The Mexican International Railway Company."

The possession and exercise of all the rights and concessions which are conferred by the present law, as also the compliance with all the obligations imposed by it, will pertain to the Mexican International Railway Company, from the time of its organization and before such organization to the International Railroad Company of Texas.

The Mexican International Railway Company, as also the said International Railroad Company of Texas, shall be considered as Mexican in all that relates to the present concession, and all the persons that may take part in the same, whether as shareholders, employés, or in whatever other character, shall be considered Mexicans in all that relates to the said enterprise within the territory of the republic; they cannot allege rights as foreigners with respect to interests or affairs relating to the enterprise, nor can they have, even when alleging denial of justice, other rights nor other means of making them valid in whatever may concern the said enterprise, than those which the laws of the republic concede to Mexicans, nor can they employ other proceedings than those established before the Mexican tribunals.

ART. 6. The Mexican International Railway Company shall not be considered as organized until there shall have been subscribed in good faith $2,000,000 of the capital stock, and paid in cash to the treasurer of the said company ten per cent. of the subscription, which facts, as also that of the formal organization of the company, shall be legally verified before the department of public works within the term of twelve months counted from the date of this law.

During one year, counted from the date of the said verification, the company shall place at the disposition of the public in Mexico, in order that it may subscribe thereto, one-half of its capital stock, upon the same terms in which the shares may be offered in the United States of America and in Europe.

After the expiration of said year the company shall be free to dispose of its shares in such place as it may deem convenient.

The statutes of the said company and the basis of its organization shall be submitted to the department of public works for its approbation, within the term of twelve months counted from the date of this law.

ART. 7. The company shall have a domicile in the City of Mexico, where a part of its board of directors, composed of five members, shall reside, of whom two shall be appointed by the executive and three shall be appointed by the company.

This part of the board, as also the part of the direction which may be established in the United States, or in Europe, shall exercise the functions which may be conceded to them by the statutes, and shall have the powers which from time to time may be conferred upon them in general meeting of the shareholders.

The company shall appoint, in this capital, a representative fully authorized and empowered to treat with the federal government and other authorities of the republic with reference to all affairs relative to the obligations which are imposed upon it by this law, and whatever in the future may be executed or agreed upon with relation to the same.

Whenever any doubt or question shall arise with respect to the interpretation of, or compliance with, the stipulations of the present contract, it shall be decided by the competent tribunals of the republic.

ART. 8. Neither the company to which this concession is made, nor that which it may form, can at any time transfer, alienate, or hypothecate the concessions of the present law, the railroad, the telegraph, and the property annexed thereto, nor its shares, to any foreign government or state, nor admit the same in any case as partner in the enterprise, and any stipulation made in violation of this precept shall be null and of no effect.

Nor can the Mexican International Railway Company transfer or alienate the concessions of this law to any company or private individual without the previous permission of the federal executive, and any transfer or alienation made without this requisite shall be also null and without effect.

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The company, nevertheless, is hereby authorized freely to emit shares, bonds, and obligations, and to dispose of the same, and also to hypothecate the railroad and its appurtenances, with the right of operating the same, and the telegraph-line, in whole or in part, as the construction of the same may progress, to secure the payment of said bonds and obligations, and interest thereupon, with the condition that the mortgage shall be made in favor of individuals or of private associations.

The mortgages that may be made by said company shall be registered in the office of public records of the city of Mexico, and this registry shall be held as sufficient proof of their validity and legal execution in all that relates to all of the lines of the railroad of the company, and local registry in the States or places where it may pass shall not be necessary.

ART. 9. The capital stock of the company shall not exceed $50,000,000, divided into shares of $100 each.

The said shares shall be considered as personal property, and may be freely transferred or disposed of in conformity with the laws in force, and with the rights and privileges accorded in this law.

The lands and other property legally acquired by the company, by virtue of cession or purchase, the edifices, warehouses, stations, machinery, utensils, materials, and all other objects which constitute the railroad and telegraph-line, as also its branches and appurtenances, shall be considered as the property of the company, with the right of making use of the same upon the same terms and under the same conditions as whatever other property, but subject to the provisions of the laws actually in force or that in the future may be decreed with regard to railroads; without its being understood by this that the conditions of this contract can be altered.

Even in the case that, from the causes which hereinafter are specified, the present concession should become void, the company shall enjoy the full possession and use of all its property, and of the portions of railroad and telegraph-line that it may have constructed.

ART. 10. The railroad of the said company shall be of single or double track, of 1.45 meters in width, (four feet eight and one-half English inches;) it shall be of a solid and perfect construction, and shall be in every respect equal to railroads of the first class.

It shall be provided with a sufficient quantity of rolling-stock for the prompt and effective working of the road, and warehouses and stations shall be established at all the places that may be required by the public interest and the business of the company, in the judgment of its engineers.

The company shall have the right of connecting with any other railroad now existing, or that may hereafter be constructed in the republic, and it shall also have the right to operate and maintain its railroad in connection or consolidation with any other railroad company, by agreement with the same, under such terms as it may deem most advantageous.

ART. 11. In order to aid the construction of the lines of railroad and telegraph to which this concession refers, the government binds itself to give to the company a subvention of $9,000 for each kilometer of railroad that it constructs, and that shall be approved by the department of public works, according to the terms of this law; but this subvention shall only have effect when the company shall have constructed and placed in operation the first one hundred kilometers of railroad from the City of Mexico toward the Pacific, and successively for sections of twenty kilometers completed, approved by the department of public works and placed in operation; and the obligation contracted by the government in no case shall be extended to give subvention for a distance which shall exceed a total of 2,621 kilometers, with the exception of the line to Toluca, in case it shall be necessary.

ART. 12. In order to render effective the said subvention there shall be issued by the government in favor of the company, immediately that each section of railroad shall have been completed, approved, and opened to public use, obligations for the amount corresponding to the said subvention, without causing interest, under the title of Construction Certificates of the Mexican International Railway, which shall be redeemed with eight per cent. of all of the import duties that may be caused in the custom-houses of Vera Cruz, Tampico, Matamoras, Manzanillo, San Blas, Mazatlan, and Guaymas, as also the custom-house which may be established at the point on the Rio Bravo where the railroad shall terminate, and that of the point of termination on the coast of the Pacific, if the same should not be one of those already mentioned.

These certificates shall be issued by the department of public works, and from the 1st of January, 1876, no importer shall pay in money, nor in any other manner but in the said paper, eight per cent. of the duties that may be caused in the said custom-houses, under the penalty of being subject to second payment, which shall be of double the sum to which the quota would have amounted, and paying the same one-half in paper, in order that the provision of the law shall be in all cases complied with, and the other half in money applicable, according to the regulations of the law of forfeitures, to the informers.

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ART. 13. The company shall be obliged to maintain in all of the ports mentioned a sufficient quantity of the said certificates, in order that those paying duties may be able to obtain the same with due opportunity.

In no case can the company sell the certificates at a higher price than that of their representative value, under the penalty of returning to the purchaser the excess and of paying treble the amount as a fine in favor of the treasury.

ART. 14. For the construction and operation of the lines of railroad and telegraph authorized by this law, there is hereby conceded to the company the right of way for the width of sixty-five meters (213 feet) in all the extent of the line.

The lands belonging to the government which may be occupied by the line for the width established, and the land necessary for stations, warehouses, and other edifices, water tanks and other indispensable accessories of the road and its appurtenances, if the same should be national property, shall be delivered to the company without any compensation, and in perpetual property.

In the same manner the company can take from the public lands materials of all kinds that may be necessary for the construction, operation, and repair of the road and its appurtenances.

The company can take, in conformity with the laws of expropriation for purposes of public utility, the lands and materials of construction belonging to private individuals, and those that may not be national property, necessary for the establishment and repair of the railroad and its appurtenances, stations, and other accessories: and the amount paid by the property as real estate tax shall serve as the basis for the valuation of the same.

All mines of metals, as also those of coal and salt, marble and other workable mineral deposits which may be encountered in the works and excavations which may be made on the line of the road or its branches, shall be the property of the company, without prejudice to third parties, with the condition that the same shall be denounced and worked subject in all respects to the mining ordinances.

ART. 15. All materials of construction, whether of native or foreign production or derivation, effects, and whatever may be necessary for the construction and use of the lines of railroad and telegraph authorized by this law, as also the rails, sleepers, spikes, locomotives, carriages, trains and their accessories, tools and instruments of labor, machinery for the work-shops, iron, bridges, houses for stations, offices, and warehouses, coal, working animals, their harness and gearing, carts and wagons, wire and telegraphic apparatus, and other materials necessary for the construction, operation, and repair of the railroad and telegraph line, shall be free, for the term of fifteen years, counted from the date of this law, from all import or custom-house duties whatever, previous notice being given to the department of public works, and from excise duties, contributions, road taxes, or imposts decreed up to the present time, or that may hereafter be decreed by whatever authority of the republic, and whatever may be the class, denomination, or object of the said imposts.

In the use of these exemptions there shall be observed the regulations that may be issued by the departments of treasury and of public works.

The road itself and its natural and indispensable appurtenances, as also the capital employed in its construction and operation, and the shares of the company, shall be exempt during the term of fifty years, counted from the date of this law, from the payment of all contributions or imposts now established or that may be established in the future.

ART. 16. The directors, engineers, employés, and the subordinates of the offices and stations of the railroad, as also the laborers that may be employed upon it, shall be exempt from all kinds of military service and from municipal services during the time they may be employed upon the road, except in case of foreign war.

The company shall have the right to organize the interior service of its lines and its guard, which latter shall enjoy the same consideration as the guards of the national revenue.

The company will immediately discharge from its service any of its employés who may enter into or protect contraband traffic, or commit any crime, and shall aid the authorities in their apprehension.

It shall also place in execution the regulations which may be issued by the treasury department for the observance by passengers and merchants of the custom-house laws of the republic.

The federal government and the governments of the States shall extend to the company all the aid and protection that may depend upon their authority, without prejudice to third parties, and the same shall be extended by the local authorities without the necessity of superior order or requisition.

All persons stealing rails or damaging or interfering with the road in any manner, may be arrested by the company's guard and delivered to the competent judge, in order that they may be punished according to the gravity of their offense.

The federal government will protect the execution, preservation, and operation of the works with all the force that may be necessary.

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The company shall be responsible for the payment of the wages of the laborers, the cost of materials, and all the expenses incurred in the construction of the road, even when the work may executed by contractors or sub-contracts, for the said work is executed by the latter in behalf of the company.

ART. 17. Upon the definitive location by the company, with the approval of the department of public works, of the direction of the lines from the city of Mexico to the Pacific and from the Pacific to the Rio Bravo del Norte, the said company is hereby authorized to make at the point or port selected as the terminus on the coast of the Pacific and at the point of termination on the Rio Bravo del Norte, the improvements which may be necessary or desirable for the security and facility of the traffic, and may establish warehouses, docks, and wharves, collecting for the use of the same a moderate charge, which shall be established with the approval of the department of public works.

The company shall have the right to acquire and possess the necessary land at each of the extremities of the line from the Pacific to the Rio Bravo del Norte, for the purpose of establishing warehouses, depots, work-shops, and other works necessary to facilitate the construction and operation of the railroad.

Upon commencement of the work of construction of the road at its terminus on the coast of the Pacific, or at its terminus on the Rio Bravo del Norte, the one and the other point shall be opened for national and foreign commerce, in case the same shall not have been already so opened.

The vessels of the first line of mail steamers that may be established from the said port on the coast of the Pacific to Australasia, and of another to Central and South America, shall be exempt from the payment of tonnage duties, and from light-house, anchorage, and other port charges, and shall pay only that of pilotage when pilotage is asked for.

The same privileges shall be extended to the vessels which may arrive at said port loaded only with coal, machinery, and provisions for the exclusive use of the steamers of said lines, and of coal, rails, materials of construction, and other effects destined for the construction, operation, and repair of the railroad and telegraph line.

If they bring other merchandise, these exemptions shall not be extended to the part which corresponds to the effects which are not of the description and for the puposes indicated.

These exemptions shall subsist during the construction of the railroad from the Pacific to the Rio Bravo del Norte, and for the period of five years after its completion.

Under the same conditions the same exemptions shall also be extended to the vessels which arrive at the port of Vera Cruz, bringing coal, rails, materials of construction, and other effects destined for the construction and operation of the railroad from the city of Mexico to the Pacific and to the Rio Bravo del Norte, during the period of the construction of said lines.

ART. 18. The Mexican government will not exact any duty for the simple transit of passengers, correspondence, and merchandise from one to the other extremity of the lines from the Gulf of Mexico to the Pacific, and from the Pacific to the Rio Bravo del Norte, and *vice versa*, during the period of fifty years, counted from the date of the completion of each of these two lines respectively; and all effects and merchandise destined solely to traverse the road and not for consumption in the country, shall be free from all kinds of custom-house duties and port charges, as also from contributions and imposts of every description.

The treasury department will prescribe the formalities which shall be observed in the discharge and loading of effects and merchandise at the one and the other extremity of the said line, and in their transportation by the railroad, for the purpose of preventing any fraud or abuse which might be committed during their transit through the Mexican territory; but these formalities or precautions shall be such that they shall not tend to delay or embarrass the punctual and rapid dispatch and transit of the trains and of merchandise, baggage, and passengers.

Besides the tariff rates of freight and passage, the company shall collect an additional sum of fifty cents for each passenger and each ton of merchandise passing in simple transit across the country, and this additional sum shall be received by the company for account of the government, the corresponding liquidation of the same being made every six months.

In conformity with the constitution of the republic, neither passports nor letters of security shall be required from persons who may pass in transit by the said roads from one extremity to the other of the lines, and who do not remain in the country.

ART. 19. The sections of railroad, as the same may be completed by the company, shall be immediately examined at its expense by an engineer appointed by the government, and the latter, upon hearing the report of the engineer, will authorize, or not, the opening of the section for business.

In case of not authorizing the opening, the government shall publish the report of the engineer who may have intervened, and the causes of the dissent.

Immediately upon placing in public use the sections of the road, the company shall

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fix the tariff of prices that are to be charged for the transportation of passengers, merchandise, cattle and other freight, which shall not exceed the following rates:

For the freight of each ton of twenty quintals of 45.38 kilograms each of merchandise:

First class, 7 cents per kilometer.

Second class, 5 cents per kilometer.

Third class, 2½ cents per kilometer.

For the transportation of passengers:

First class, 4 cents per kilometer.

Second class, 2½ cents per kilometer.

The charge for merchandise and passengers in intermediate sections shall not exceed the sum proportional to the distance; but the company shall not be obliged to receive less than twenty-five cents for any quantity of freight, nor less than ten cents for passage for any distance.

Two years after the completion of the line, and its having been placed in operation, the company, in accord with the government, shall modify the tariff of freight and passage; but without preventing that the dividends to the shareholders shall be at least ten per cent. per annum.

The distribution of effects in the three classes of the freight tariff shall be made, in accord with the government, every two years, counted from the completion of the road, should not the law prescribe for this purpose in the future longer periods.

From the commencement of the operation of the road to Queretaro, and successively that of the sections to Guadalajara, Durango, and San Luis Potosi, cereals of national production shall be included always in the third class.

The charge for telegrams which may be transmitted by the lines of the company shall not exceed the following:

For each message not exceeding ten words besides the date, address and signature, that may be transmitted a distance not exceeding one hundred kilometers, twenty-five cents.

For each additional ten kilometers of distance, two cents.

For each word contained in the message above the first ten, there shall be paid not to exceed the twentieth part of the rate that according to the distance may be charged for the first ten words.

ART. 20. The government shall have the privilege in the transportation of troops, trains, munitions, equipages, provisions, horses and mules, proceeding from one point to another on the lines of the company, as also in the passage of officers of the army and federal employés traveling on public service, a reduction of 50 per cent. upon the prices charged according to the general tariff; but to avoid abuses which in this respect might be committed, it is hereby stipulated that in each instance of the dispatch of troops or the transportation of trains, munitions, or effects, and of passage, there shall be given by the government, or by the superior functionaries authorized for this purpose by the government, a special order for the directors of the line.

Immigrants arriving in the republic with the due authorization of the government, shall enjoy the advantages conceded to the armed force.

Until the expiration of fifteen years, counted from the date of this law, the company will perform gratis on its lines of railroad, as the same may be placed in operation, the transportation of correspondence, printed matter and employés, dispatched by the post-office department in the service of the same; but this service shall be in such manner that there shall not be caused on that account any variation in the regulations and orders of the company with regard to hours of departure and stoppages at the points which it may think proper to determine.

After the said fifteen years the mail service upon the lines of the company will be a matter of contract.

ART. 21. The obligations contracted by the company with regard to the periods of time stipulated in this law, shall be suspended in all fortuitous cases or of *fuerza mayor*, which may directly and absolutely impede the fulfillment of the said obligations; such suspension shall continue only for the time of the continuance of the impediment, it being the obligation of the company to present to the federal government within the term of three months after the commencement of the impediment, information and proof that such fortuitous case or of *fuerza mayor*, of the character mentioned, has occurred.

From the sole fact of not presenting the information and proof within the time stipulated, the company shall be debarred from at any time thereafter alleging the occurrence of such fortuitous case or of *fuerza mayor*.

The company shall also present to the federal government information and proof that the work has been resumed immediately that the impediment has ceased, or at least within two months thereafter, which said information and proof shall be presented within the two months following the two first mentioned.

There shall be allowed to the company only the time that the impediment may have continued, or at the most two months more.

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ART. 22. Besides the other obligations expressed in this law, the company shall have the following:

I. It shall not transport any foreign armed force, without the express permission of the federal government.

II. It shall not transport effects belonging to a belligerent power, or declared contraband of war by the laws of the Mexican Republic, without the express authorization of the federal government.

III. Within eight months from the date of this law, the company shall give a bond, satisfactory to the executive, to the amount of four hundred thousand dollars, this requisite being indispensable for the existence and validity of the concessions made in this law; and the said sum shall be forfeited by the parties interested in case they do not comply with the obligations stipulated in article 3.

ART. 23. The concessions granted by this law shall be forfeited from either of the following causes:

I. From failure to comply with the obligations specified in the clauses of the preceding article.

II. For not constructing the first 100 kilometers, the sections of 240 kilometers, and completing all of the road within the time stipulated in article 3.

III. For alienating or transferring this concession or the rights derived from it to any foreign government or state, or by admitting the same as partners in the enterprise.

In whichever of the cases so specified the company shall forfeit the concessions granted by this law, of which the government can then dispose at its pleasure; but the said company shall retain the ownership of the edifices which it may have constructed, of the part of the railroad and telegraph which it may have completed, and of the materials, machinery, and other objects employed in its operation.

The government of the republic, or the individual, or company, to whom it may concede the right, shall be authorized to acquire the whole upon previous payment therefor according to the valuation which, for such purpose, shall be made by two experts, appointed one on each part, who, before commencing to act, shall designate a third, who shall decide in case of disagreement.

ART. 24. The president and treasurer of the company shall present to the department of public works an annual report, setting forth the operations in each fiscal year, which shall terminate on the last day of June, of the lines of railroad constructed by the company.

This report shall be made under affirmation that it is true, and shall show the financial situation of the company; the amount of money received and expended; the amount and character of its debts, and the various kinds of the same, as also what may be due to the company; the total amount of shares issued; the names and residences of the directors and chief employés of the company; the number of kilometers of road constructed and in operation each year; a description of the sections of the road surveyed and in process of construction; the amount received from passengers and for freight respectively; the expenses of the road in operation and its accessories; the number of passengers carried, and the amount of freight transported.

In use of the authorization which was conceded to the executive by the law of the 10th of December, 1872, to receive proposals and to adjust contracts with reference to the construction of railroads, it has concluded the preceding contract with the representative of the International Railroad Company of Texas, in order to submit the same, in compliance with the provisions of the said law, to the approbation of the Congress of the union.

BLAS BALCARCEL.

In representation of the International Railroad Company.

E. L. PLUMB.

MEXICO, *May* 29, 1873.

Extract from the address of the President of Mexico at the close of the sessions of Congress, May 31, 1873.

[From the "Diario Oficial," May 31, 1873.—Translation.]

In accord with the desire of Congress, the executive entertains a lively anxiety to facilitate the prompt construction of a railway to the interior. Its immense utility in developing all the elements of our agricultural and mineral wealth is self-evident. With this profound conviction, the executive has desired that in a concession for a work of this great importance, its prompt commencement and the most favorable bases for its successful termination should be reconciled, at once combining the legitimate interest of the grantees with the public interests of the nation generally, as well as with those of the States in particular which the road may unite. The executive has already pointed out the inconveniences which, in its judgment, the bases of a cer-

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tain project might possibly entail, and has also submitted to Congress another project, the bases of which are deemed acceptable. When the representatives of the people shall have resolved the construction of this great work, well worthy as it is of all preference, the executive on its part will tender its most effective co-operation.

No. 296.

Mr. Foster to Mr. Fish.

No. 14.] LEGATION OF THE UNITED STATES,
Mexico, July 19, 1873. (Received August 5.)

SIR: The election for deputies to the seventh Mexican Congress, which convenes in September next, was held on the 13th instant. In the nation generally it was peaceable and more free from disorders than in past years. The charges of improper interference of the administration, of the army, or of officials have been less numerous or serious than has been customary. The supporters of President Lerdo will have a large majority in the new Congress, and it is expected that he will be able to secure legislative approval to such measures as he may propose.

On the 14th instant the insurrectionary leader, Lozada, who has long disturbed the peace and resisted the federal authority in the state of Jalisco, was taken prisoner and his adherents captured or dispersed. With the exception of some local disturbances in the State of Yucatan, the country is quiet and the national authority respected.

I am, &c.,

JOHN W. FOSTER.

No. 297.

Mr. Foster to Mr. Fish.

No. 36.] LEGATION OF THE UNITED STATES,
Mexico, August 27, 1873. (Received September 12.)

SIR: In my dispatch No. 31, August 15, I noticed the complaints in the Mexican press in reference to the depredations of the Apache Indians of Arizona Territory, United States, upon the citizens of the State of Sonora, Mexico.

These complaints continue to be repeated and discussed. I inclose an article from the Two Republics of this city, containing a list of these depredations; and also an article from the Estrella de Occidente, the official organ of the State of Sonora, giving further details upon the same subject.

I am, sir, &c.,

JOHN W. FOSTER.

[From the Two Republics, Mexico, Saturday, August 23, 1873.]

BORDER RAIDS.

There have been many raids on the Rio Grande, some upon the persons and property of Mexican citizens, and, if we accept all the statements in the Texas papers, a greater number upon the citizens of the United States. All the raids from both sides of the Rio Grande bear no comparison with those committed on the people of Sonora alone

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Yet we see no references whatever, except in the California papers, (greatly to their credit,) by the press of the United States to the murderous warfare carried on against the defenseless people of Sonora by Indians living on reserves and clothed and fed by the United States Government. The San Francisco Alta and Examiner have exposed and denounced these outrages and the agents and officers of the United States who have connived at, or, what is equally criminal, neglected their duties, and passively permitted these murders and robberies to be perpetrated, in shameless defiance of treaty obligations and duty to a neighboring friendly nation.

But every raid committed upon Texas has been published and reiterated with the most exaggerated accounts. The extent of damage is so much overestimated that the preposterous claims of the Texans have risen in volume until their exaggerations have at last produced comments in many quarters that have hitherto been sympathizing with the "poor frontier settlers of Texas." These claims for stolen cattle have been inflated until the principal and damages have been aggregated to over $40,000,000, while the census shows that, in all the counties bordering on the Rio Grande, the assessed personal property in 1870, which includes every other as well as cattle, amounted to only $2,500,000, and when it is known that the stock in the Rio Grande counties is, at this time, estimated by the owners at double that amount.

Have not the American people sufficient sense of justice to give to these important revelations their due weight in considering this subject? When the murders and robberies of Mexican citizens by raiders from the United States are double the number of those upon the people of that country; when the claimants for stolen cattle have presented such unjust and fraudulent claims, amounting to twenty times more than they ever possessed, is it not time for the honorable and just people of the United States to pause in their clamor against Mexico, and to inquire into the causes and motives that propel this filibustering element? The New York World and Tribune have often vindicated Mexico, the Examiner and Alta of San Francisco much oftener; the Press and Age of Philadelphia, the Herald of Cincinnati, the Picayune of New Orleans, and some other papers, have nobly withstood the filibustering clamor, and have occasionally spoken the truth in relation to Mexico. They have their reward, not only in the consciousness of having performed their duty to their own countrymen, and having acted justly toward their neighbor, they have also won the esteem and gratitude of the latter. But, in the great and diversified excitements of their rapidly progressing country, they seem to have but little attention to spare to Mexico. Of course, the latter has no claim to their attention, more than what can be expected from a just and generous press, yet the papers referred to, and others, can do much in support of the honor of their own country and toward the dispensation of justice toward a neighboring friendly people, by a more frequent reference to the subject of the raids, with a fair statement of the facts in connection therewith.

In reference to the constant warfare carried on against the people of Sonora, we have to state that the California papers have persistently stated that in General Howard's treaty with the Apaches, there is a "weak clause," if not a criminal one, which protects these Indians in their raids; and these papers have demanded the publication of the treaty, which, as yet has not been done, while in the mean time everything that can be hunted up, is published and exaggerated to excite the people of the United States against Mexico. These are subjects worthy of the ability and influence of the papers referred to; and also another, to which they call their attention, is the following list of some of the raids, that have been committed in Sonora, by the Apaches, within the brief space of five months, viz, from October 18, 1872, to March 7, 1873, in which it will be seen there were thirty-one raids in those five months, and besides the robbery of horses, cattle, sheep, and other property, twenty-four men and three women were murdered.

We give this statement, taken from an official document, which furnishes names, dates, and details, and is authentic beyond all controversion.

The following, taken from the *Pajaro Verde*, of this city, is a list of the raids referred to:

October 18, 1872, two men killed in the ranche Bajari.
October 25, 1872, one woman killed in Saucito.
October 25, 1872, one man killed at El Cerro del Chile.
November 8, 1872, a wagon stolen near Uras.
November 29, 1872, seven horses and two oxen stolen near Magdalena.
November 29, 1872, one horse and several cows stolen near Jumerez.
December 13, 1872, a herd of horses stolen near Arispe.
December 20, 1872, a herd of mules stolen at Punta Amarilla.
December 27, 1872, thirty cows stolen near Altar.
December 27, 1872, eleven horses stolen near San Pablo.
January 17, 1873, three oxen stolen in Jacori.
January 17, 1873, three men killed in Cañeda Ancha.
January 21, 1873, one man killed in Tecolote.
January 21, 1873, four men killed in Los Tanques.

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January 24, 1873, two men (one of them president of the supreme court of Sonora, killed in Duranguillo.
January 27, 1873, a herd of horses stolen in San Felipe.
January 27, 1873, one man killed in El Tangus.
January 27, 1873, one man and one woman killed in Monteros.
January 27, 1873, one man killed in Calera.
January 27, 1873, one man and one woman killed in Puntas.
February 14, 1873, one man killed and a herd of horses stolen in Casita.
February 14, 1873, one man killed in Eneiz.
February 14, 1873, two oxen stolen in Herepora.
February 21, 1873, a herd of horses stolen in San Pablo.
February 21, 1873, two men killed in Bocoachi.
February 21, 1873, a herd of horses stolen in Panzas.
February 21, 1872, a herd of horses stolen in Lajas.
February 28, 1873, one man killed near Pesqueira.
March 7, 1873, two men killed near Molinos.
March 7, 1873, one man killed near Guadalupe.

[From the Estrella de Occidente, Ures, Sonora, Mexico, July 11, 1873.]

On account of the pressure of matter upon our columns in our last two numbers, we were unable to give extracts from the various reports sent to the government by the prefecture of Montezuma, and we confined ourselves to giving an account of the murders committed by the Apaches, viz, those of the unfortunate Soto, Gaxiola and his son. The attacking party did not consist of two hundred Apaches, as was at first stated, since the person who made his escape says that there were only five, and the authorities of Oputo state that there were as many as twelve.

Nevertheless, when we consider how the Indians have separated in that district into small parties of from two to six, the number does not seem insignificant.

Although these tactics of the Apaches render it very difficult to pursue them with success, the government has taken measures to prevent the evil as far as possible in future, and the citizen prefect is prepared to pursue them, having commenced by cutting off their favorite places of ingress and egress.

On the 19th of June six Apaches killed two head of cattle on the Mortero estate. Twenty men started in pursuit, and followed their trail as far as the Jamaica Hills, where they lost it. These Indians had already stolen some four or five animals; but as they always separate, going either toward the interior of the State, or retreating, it was equally impossible in that case to follow their trail.

The prefect was engaged in organizing two parties for pursuit, columns of smoke having been seen both in the Madera and Basura Mountains.

According to a report received from the municipal president of Cumpas, the Apaches killed an ox at El Sauce on the 13th of June. The same president believes that the camp of the Apaches was near, and was preparing to attack them, for which purpose he asked arms of the prefect in order to organize a suitable force. The robberies committed by these Apaches at Cumpas were frequent, for in another report, dated June 29, it is stated that they killed another ox in Alizo Valley. The party that went in pursuit of them followed their trail until they lost it in the mountains, when they were obliged to return on account of the rough character of the ground.

The municipal president of Bacadehuachi reports, under date of June 16, that three Indians stole ten horses at La Galera. The want of arms and ammunition prevented him from starting in pursuit as early as would have been desirable, and an insufficiently armed party set out on the day following and followed their trail as far as the mountains, when they returned because their provisions had given out.

For lack of arms, moreover, the municipal president of Bacerac was unable to send men in pursuit of a party of Apaches who had attacked the citizen Loreto Pisano, who escaped from them miraculously. The commandant of Bavispe did so, however, sending a party of citizens of Bacerac after them, who followed their trail for two days, and then lost it. The above-mentioned attack took place on the 7th, and on the 11th they attacked the citizen Don Leandro Enriquez, also stealing two horses from D. Miguel Terrazon, and D. Juan Valencia. They were likewise pursued as far as the mountains.

The municipal president of said town remarks that the Apaches give daily evidence of their presence, and that it is impossible to pursue them, on account of the lack of arms.

The municipal president of Bavispe reported, under date of June 15, that the Apaches had appeared in the neighborhood of that town and stolen six horses. Fifteen men set out in pursuit of them, and followed them as far as Punta del Agua, when they returned, their shoes being very bad, and their provisions being exhausted.

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On the 13th they stole three horses from the citizens Feliciano Ruiz and Donaciano Parra. The commandant of the garrison was able to lend no aid for the pursuit of the Indians, because his men had no shoes, and he had no means of procuring any.

These reports, which show in what situation the district of Moctezuma was, are of no very recent date; we were unable to publish them at the proper time, for the reason which we have already explained. With the means which have lately been placed at the disposal of the government, the most pressing needs have been supplied as far as possible, and such measures have been taken as were imperiously demanded by the safety of the inhabitants. With regard to the lack of arms and ammunition, all the districts are, more or less, in the same situation, it not having been possible to make the purchases of such material which were so desirable. As no appropriation has been made, except to pay such forces as should be actually armed against the Apaches, the government has not been able to apply the surplus funds to the purchase of arms, and this is the reason why arms are so scarce.

For the present, the citizen governor has issued his orders for the frontier company, re-enforced by that of Bacoachi and Chinapa, to take post at Agua Prieta, in order to guard, in conjunction with that of Santa Cruz, which has occupied the Heredia marsh, the whole line of the extensive plain of San Pedro, including the places of ingress and egress of the savages, from El Saucito as far as La Penascosa. Both detachments are under the command of that indefatigable leader, the citizen Florencio Ruiz.

The Bavispe company has taken post at Batepito, under the command of its intrepid chief, the citizen Jesus Escalante, for the purpose of cutting off the passage of the Indians through the valley, and pursuing them as they deserve.

The citizen prefect of Moctezuma has been furnished with means to set on foot such a force as he may think proper, for the purpose of frightening the enemy, or of attacking any point where he may suspect that Indians have encamped with their families; he has also been authorized to make use of the Bavispe company whenever he may think it necessary for the success of an expedition.

Arizpe.—On the 25th ultimo the Apaches stole two working horses from D. Antonio Sanchez. Eight men started in pursuit, and, after a forced march of two days, overtook them in the Sierra de los Locos, recaptured the two horses, and also took from them three gourds, four American blankets, and some other plunder which the Indians had to leave behind in their precipitate flight. The roughness of the ground prevented the pursuing party from giving them such a lesson as they deserved.

No. 298.

Mr. Foster to Mr. Fish.

No. 48.] LEGATION OF THE UNITED STATES,
Mexico, September 20, 1873. (Received October 8.)

SIR: Since my last review of public affairs the only events of general interest which have occurred are the observance of the national anniversary and the opening of the first session of the seventh Congress of the Union, both of which took place on the 16th instant. The day was recognized by the display of the American flag at this legation, at the office of the consul-general, and by a number of American citizens resident in this capital; and by a general participation in patriotic demonstrations by government and local officials, organizations, and citizens.

The new Congress contains a large majority of supporters of the President and his administration. It assembles at a time of greater peace and legal order than the country has enjoyed for many years. I inclose herewith a printed copy and translation of the address of President Lerdo to that body, and of the response of Hon. Nicholas Lemus, president of the Congress. (Inclosures A and B.) It will be noticed that the Centennial Exhibition at Philadelphia in 1876 is favorably commended in both addresses.

I am, &c.,

JOHN W. FOSTER.

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[Inclosure B.—Translation.]

SPEECH OF PRESIDENT LERDO AT THE OPENING OF CONGRESS, SEPTEMBER 16, 1873.

Citizen Deputies:

The installation of the seventh constitutional congress is an event doubly auspicious for the Mexican people. Besides the benefits justly expected from the patriotism and the wisdom of Congress, it sees in the legal assemblage of its representatives a new and satisfactory proof that constitutional order is now firmly consolidated in the republic.

Receive, then, citizen deputies, my very sincere congratulation, because you enter upon your high functions under the most favorable conditions, resting upon the assurance of a fortunate present, and cheered by the confident hope of a still happier future.

The recent elections for Congress and for the supreme court of justice, which took place with regularity and tranquillity, have given palpable evidence that the constitution and the laws are in force throughout our territory without the least opposition.

When the present executive was called to office by law, he made a formal and spontaneous manifesto, which he renewed with pleasure on being soon after favored by a popular election, to the effect that the constant rule of his conduct will ever be the faithful observance of the constitution and of the laws of reform, which have opened a new era for our country, regenerating it with the principles of modern civilization. In conformity with his promise and his duty, the executive has placed a check upon some advances hostile to the laws of reform, which will soon be so justly invested with constitutional sanction.

Legal order is maintained throughout the States, free from threatened disturbances, excepting a legal question, which has excited between the State authorities of Coahuila, differences which are to be regretted. Although this has given occasion to a call for federal aid, the executive has thus far judged proper to refrain from imparting such aid, both because in his opinion the occasion foreseen by the fundamental code has not arisen, and because he considers his neutrality entirely in accordance with our federative system, and even regards the matter in dispute as a question of State constitutional law, which it is to be desired may receive a prompt and pacific solution through the action of the local powers.

Our relations with the friendly powers preserve the same spirit of reciprocal goodwill and cordiality as heretofore. The republic of Colombia has appointed a new consul-general in Mexico. By virtue of the resignation of the former representative of the United States, a new minister plenipotentiary has arrived, who, like his predecessor, has proved the sentiments of friendship fortunately subsisting between the two republics.

The presidents of Bolivia, Guatemala, and Uruguay, having communicated their elevation to the chief magistracy of their respective countries, the executive has replied with the esteem and cordiality due to the governments and people of those republics, which have, with ours, so many ties of fraternity.

The American Government, desiring to celebrate the centennial of the independence of the United States of America, has projected for the year 1876 a great exposition of arts, manufactures, and products of the soil and mine, to which it has invited the people and the government of Mexico. This invitation was accepted with satisfaction and deserved esteem by the executive, who will endeavor to have Mexico worthily represented in the brilliant competition at Philadelphia, counting upon the support, which he does not doubt will be given him by Congress, in all those measures which require legislative action.

The ratification of the convention of November 27, 1872, which renewed that of July 4, 1868, having been exchanged, the commissioner and the agent of Mexico in the mixed claims commission are now in Washington discharging their important duties.

The commission of investigation appointed for the frontier of the Rio Bravo has not yet been able to terminate its interesting labors in spite of its assiduous efforts. Consequently its period of duration has been extended in accordance with the congressional decree, and by virtue of the same a commission of investigation has been appointed for the frontiers of Chihuahua and Sonora.

The disappearance of the chieftain who for so many years maintained a civil war in the district of Tepic put an end to a glorious campaign, which shed lustre upon the valor and skill of the national army. Nevertheless, as it is impossible for that district to be re-organized in a few days, after being so long subject to the abuses of a tyrannical domination, the executive has thought it necessary to maintain there sufficient forces to avoid the danger of new outbreaks, taking care, at the same time, to re-organize all branches of the local administration, and to introduce proper reforms, prominent among which is the establishment of schools to generalize public instruction among the people, which will thus be able to appreciate the benefits of peace and of legal order.

The elements which have grown up during the protracted anomalous condition of

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Tepic afford sufficient reasons for still maintaining there a military government; but as this ought not to be indefinitely prolonged, it may now be a proper time for the representatives of the nation to examine and decide the principal question concerning the separation which that district has solicited, or its re-incorporation with the State of Jalisco. An end would thus be put to the agitation maintained for so many years in that district, and Congress having made the decision which its wisdom may dictate, the condition of Tepic would be definitely fixed, to the great benefit of the general peace of the republic.

The proper commission has just concluded the draft of a code of criminal procedure, which will be promptly examined, in order that, by virtue of the authorization of Congress, it may soon receive the character of law, to the profit of a very important branch of the administration of justice.

The executive believes it his duty to recommend to the enlightened consideration of Congress the pending project concerning the basis of a reform of the system of public instruction, since, if this could be acted upon during the present period of sessions, this important improvement might be established in time for the coming scholastic year.

It is unnecessary to recommend the pending railroad projects; their utility is so great and so well recognized, as also the anxiety of Mexican society for the realization of these enterprises, destined to produce the most abundant fruits of prosperity. The projected railroads will quickly foment our agriculture in the interior, and there will be obtained, at a later day, the great advantage of placing the republic in immediate relations with the United States and with Europe, giving, also, to Mexico the means of communication with Asia.

Among the pending bills those relating to a diminution of the cost of freight upon the railroad from Mexico to Vera Cruz, and to the prompt completion of the Jalapa railroad, deserve special attention. Both these improvements will impart new life to rich and fertile regions, and will develop upon a grand scale the exportation of our tropical productions.

The executive having been authorized to amend the tariff, intrusted its study to a commission, whose intelligent members have worthily executed their task. The examination of several points on which advice was tendered by various custom-houses has delayed the publication of the new tariff, since the executive desires to proceed with the greatest prudence, to the advantage both of commerce and of the treasury.

The collection of the revenue and the payment of the public expenditure have been effected with the greatest regularity. Notwithstanding the outlay occasioned by the campaign of Tepic, the civil and military lists have been punctually paid, as well as the ordinary expenses of the administration.

Of the loan contracted in August of last year seven-eighths of the principal has been paid, as well as the interest which has become due. That loan freed our society from a new contribution, which would otherwise have been indispensable on account of the scarcity of resources resulting from the civil war, not then fully ended. The good-will displayed on that occasion by the subscribers to the loan was worthy of esteem, and it was but just to attend with the greatest exactness to the payment of principal and interest, as was demanded by good faith and the credit of the public administration.

Being fully persuaded of the immense advantages produced by telegraphic communication, care has been taken not only to preserve the existing lines, but to continue those commenced and to construct other new ones. That of Tabasco, soon to extend to Yucatan, is nearly finished, as will shortly be those from Acapulco to Chilpauzingo, and from San Luis to Tampico. A sum of money has been sent abroad sufficient to purchase the wire and apparatus for six hundred leagues more of telegraph. With these, the extent of the lines belonging to the government will soon reach 7,500 kilometers, thus proving the lively desire of the government to establish in all the States of the republic this means of communication, so fruitful in benefits for society.

Through the just interest of facilitating in every way our communication, especially with the distant States which have hitherto not enjoyed them, it was provided that the post-office department furnish a proper subsidy for the establishment of a line of diligences between the cities of Durango and Chihuahua. The contracting company has offered that before the end of the present month that line will be inaugurated, by which there will be established for the first time a regular service of coaches between those two cities.

The executive being convinced that the lack of vigilance along our extensive coasts on both seas occasions great losses to the treasury and to honest commerce, has determined to purchase four coast-guard vessels, two for the Gulf of Mexico and two for the Pacific. Smuggling will thus be prevented in great part, and also the danger of new commotions in some of our ports. The executive has already provided a part of the sum necessary for the purchase of the said four vessels, but the amount fixed in the act of appropriation being insufficient, a proposal for that purpose will be im-

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mediately submitted to Congress, prompt action upon which is recommended to your consideration.

Provision has been made for recovering the mints at Juanajuato, Zacatecas, and San Luis, by the payment of the sums due the lessees according to their respective contracts. The executive has taken a decided interest in this measure, not only on account of the unquestionable advantages which will arise from the government having charge of the mints, but also in order to avoid the heavy losses which would be incurred by delaying this payment, since, if not paid before the end of the present year, the credits of the mints at Juanajuato and Zacatecas would, by contract, bear a triple interest, counting from their respective dates.

Without having failed to pay the ordinary expenses of the administration, a million of dollars has been laid out in the payment of the loan, in the purchase of material for telegraphs, in the sum advanced for the purchase of coast-guard vessels, and in the recovery of the mints.

These facts will prove to you, citizen deputies, the zeal of the executive in striving after all possible improvements. Although there are grave difficulties to surmount, the administration endeavors to proceed with regularity, and if, as we should hope from the patriotism and good sense of the Mexicans, peace shall continue to shed its inestimable blessings upon our society, we may flatter ourselves with the well-founded hope that the republic, after so many sacrifices, will obtain the most complete prosperity.

RESPONSE OF THE PRESIDENT OF CONGRESS, MR. NICOLAS LENUS.

Citizen President of the Republic:

After the periodical renewal which our institutions prescribe for the legislative branch of the Mexican government this constitutional Congress commences its duties under the most favorable auspices. The recent elections, which, in the pacific contest of all parties, took place with the greatest tranquillity, and the present reunion of the representatives of the people, are truly evident proofs of the consolidation of the order of things established by the federal compact and the other laws of our political code. The nation, which loves and understands its institutions, felicitates itself with Congress and the executive upon so happy an event, the result of the profound peace which now reigns throughout the republic, and, enjoying the present tranquillity, cherishes for the future the most flattering hopes of an epoch, not very remote, of real happiness. Congress is aware of the energy which the present administration has shown to bring about this result, and has seen the zeal with which it watches over the enforcement of the laws; and it does not doubt, therefore, that it will be ready and willing to repress the infractions which may occur in the future, of the constitution and laws, of reform, as well as the other provisions of a federal character.

In the State of Coahuila certain troubles have arisen which threatened to disturb its peace, even to the extremity of demanding from the federal executive the aid of its armed force. This extraordinary remedy is often efficacious, but should be dispensed with prudent reserve, as the executive has very properly decided. Besides, Congress hopes from the justice of the authorities and the good sense of the people of Coahuila that this affair will receive a pacific and patriotic solution.

Congress rejoices that the relations of Mexico with the friendly powers continue as cordial as heretofore; sees with satisfaction the exchange of courtesies with the governments of the south of this continent, and takes note of the appointment of a consul-general by the republic of Colombia. It is likewise gratified that the executive has accepted, with merited appreciation, in the name of the Mexican people, the invitation of the authorities of the United States of America to the exhibition of industries, which will take place in Philadelphia in the year 1876, in honor of the centennial of the independence of that republic; and it will take care, for its part, to adopt the measures necessary for Mexico to be worthily represented in that exposition.

The measure most adequate to preserve harmony between two friendly nations is that of arranging their differences by means of amicable conventions; that of the 4th of July, 1868, made with the republic of the North, and extended on the 27th of November, 1872, has for its object that our national interests may be properly represented and defended, and Congress has confidence in the accomplishment of these great ends, through the wisdom and impartiality of the commission named for this purpose by both governments. It also expects from the labors of our investigating commission of the northern frontier the same pacific and favorable results to Mexican interests.

The executive promises the speedy promulgation of the code of criminal procedure, and recommends to the national legislature the prompt consideration of a proposition concerning the bases necessary for our system of public instruction. The delegates of the people, who constitute this assembly, comprehend that the codification of the laws

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is a necessity for all times and all nations, and hopes that this promise will be fulfilled within a short time, for the benefit of the inhabitants of this district and the territory of Lower California, being disposed, for its part, to consider both the proposition on the subject of public instruction and all the other general interests which the executive may see proper to transmit to Congress.

The deputies to the present legislature, who come to the national assembly free from ignoble passions, unbiassed by party pledges, and resolved to take as the rule of their conduct the moral and material progress of the republic, observe with pleasure that the executive does not neglect these important objects, and that it strives to raise Mexico to the level of the most civilized nations, adopting the benefits of modern inventions in order to render more easy and convenient the communication between the States, and giving aid to a line of stages from Chihuahua to Durango, which may increase the commerce of those cities. The national representation, taking its inspiration from the fulfillment of its duties and its love of country, will consider and determine, as speedily as possible, in the manner most convenient to the public welfare, the matters of the reduction of the freight-tariff on the railroad from Vera Cruz to the capital, by way of Orizaba; its duplicate communication by Jalapa, and the extension of this road from the capital to some point on the Pacific Ocean.

The regular payment of the expenses of the government, the fulfillment of its pecuniary obligations, the recovery of the mints at Juanajuato, San Luis, and Zacatecas, in conformity with their respective contracts of lease, and the purchase of abundant telegraphic material, indicate the satisfactory condition of the federal treasury, which will undoubtedly improve hereafter, with the products of the mints now recovered, the repression of smuggling by means of four coast-guard vessels, to which proposition Congress will, without delay, give its attention; and, above all, with increasing honesty in the collection of the taxes and the payment of the expenses.

With the execution of the turbulent Lozada, the insurrection in Tepic happily terminated, and that district now, as well as the whole republic, enjoys the benefits of peace. Congress comprehends the difficulties of its re-organization, and will seek to give to so delicate a subject a conclusion consistent with the tranquillity of the nation and respect for its institutions, with the real interests of the State of Jalisco, and with the especial benefit of Tepic itself.

Citizen President, the sky of the Mexican republic is at this moment free from clouds; its happy future, like the radiant sun, appears above the horizon. We, the members of Congress, pray that, through harmony between the supreme powers of the State an omen so auspicious may result in an uninterrupted series of blessings to the country.

No. 299.



Mr. Schuchardt to Mr. Hunter.

No. 61.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, January 3, 1872. (Rec'd Feb. 26.)

SIR: Ever since I wrote my No. 60, dated December 22, 1871, this place is kept in a state of siege. The revolutionists outside, who were in the first days of Valdes's occupation of the place of a comparatively small number, could have been very easily dispersed by him if he would have marched out to meet them, but his object being not to expose himself in fight, he preferred to fortify and give them time to concentrate a force of eight hundred volunteers three miles from here, and they only await the arrival of two pieces of artillery to attack this place. Valdes has completed his fortifications. Barricades are erected on the corners of the plaza, and a mine laid into the church in front of one of the barricades, and not more than fifty yards from my house. This is, I believe, to prevent the revolutionists from using the church as a shelter when they attack. Inside of these fortifications, which occupy about one acre of ground, from ten to twenty head of cattle are killed daily, and the residue left on the ground. In the narrow court-yards of the houses the cavalry horses are kept, and the manure, which is never removed, is accumulating to a great quantity. If rain should set in, this must result

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in epidemic diseases. The dwellings outside of the fortifications are broken into and robbed by the soldiery, who only are following the examples of their chiefs, who do the same, only on a greater scale. There is no mercantile establishment where the goods were not disposed of by the officers to their own benefit. Most of these goods, in my opinion, have been crossed over to Texas. One whole cart-load of soap, crockery, &c., was seized by the inspector of Eagle Pass, having been crossed at dark by the second in command without permit from the custom-house. Goods of all descriptions are offered for sale by these men, and, as few persons will buy them, they are sold at very low prices. Valdes also commenced to sell his horses, and, as their title is of a very doubtful character, men buying them should expect to be prosecuted for buying knowingly stolen property. There is a large number of his horses on the Texas side. They are now under bond there, and bound to be recrossed before he can sell them.

Valdes's force consists of about two hundred men, most of them pressed into service, not paid, very dissatisfied, and have no confidence in him. They see that he sells everything, and know that he had several interviews on the Texas side with Colonel Falcon and his (Valdes's) brother, leaders of the revolutionists; they think he will sell out to them as he did when he left here in October. The rumor goes that, at that time, he had signed an agreement with the revolutionists to evacuate this place, go to Monclova by the high road, not pass through and molest the towns on his way, and, at his arrival at Monclova, pronounce in favor of Diaz; for this he should receive $4,000, but, as this money was not paid to him, he got embittered against the revolutionary party and commenced depredating through the country. When he made his escape from the besieged city of Saltillo he was ordered back by Governor Zepeda, but did not obey the order of his superior, whereupon Governor Zepeda declared him an outlaw (afuera de la ley) and ordered General Gonzallez Herrera to pursue him, but Valdes reached the frontier before he could be overtaken. This band of Valdes's is considered the only government force, if it can be called so, left in this State and the State of Nuevo Leon. A merchant who arrived at this place, and had left Monterey ten days ago, reports that place and Saltillo, since these cities are in the possession of the rebels, very quiet, and he did not hear that there were government troops from the interior expected to retake these places. Commerce is ruined; the only traffic going on is that of a few people with Valdes, who sells them his plunder. The owners of cotton trains detained, at heavy expense, on the Texas side, in view of these sad affairs, applied to the collector of customs of Eagle Pass to allow them to export their cotton, at their own risk, below this place, paying duties only to one party, (the Diaz,) who occupy the country of their transit, but the collector refused to admit such exportation, thinking, by doing so, he would assist a fraud on the revenues of the legitimate government of Mexico. Valdes has sent emissaries to San Antonio, Texas, with a power of attorney to sell bonds at a great discount, to be accepted at this custom-house at full for all importations the holders of said bonds would make. He claims ample powers conferred on him by the federal government of Mexico. I have authenticated his and his custom collectors signatures to said power of attorney. Besides the soldiers there, there is not a soul in this town; all families have emigrated to Eagle Pass, and many of them will become permanent residents in Texas, probably because they cannot see an end to the troubles of their country.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

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No. 300.

Mr. Schuchardt to Mr. Hunter.

No. 63.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, January 10, 1872. (Rec'd Feb.16.)

SIR: I have the honor to transmit, for the information of the Department, the copy of a letter directed to me by Messrs. Harrison and Bronaugh, both respectable citizens of the United States, residing in the district of Monclova, about one hundred and fifty miles from here. The Lieutenant Colonel Bueno mentioned in said letter is the same who is the second in command of the force which now occupies this place, and what he has done to the writers of said letter is only a small wrong in comparison with the outrages he has committed since he occupied this place. Before this band arrived here all the people fledto the Texas side, having received the news how these men had depredated on the towns they came through. Like in other places through which they came, all mercantile establishments of this place were forced open and the goods disposed of to the benefit of the few commanders. Goods of all descriptions, billiard-tables, house-furniture, and ornaments are sold at very low prices; and I am sorry to say that citizens from the Texas side were the buyers, knowing how all this property was obtained.

By Bueno's order, also, the house of an American citizen was broken into and a quantity of corn and other things appropriated; and, although I wrote twice to the commander, requesting the payment for the articles so taken, he never answered to my request.

When this plundering commenced several United States citizens themselves, and the attorneys of others, made application at this office, in order to protect their goods against this pillaging, to certify their property being that of United States citizens, and seal the rooms where such property was stored. After having scrupulously examined the claims establishing their citizenship, I proceeded to render the service requested from me, sealed several doors and fastened to each door so sealed a certified notice expressing the character of the goods contained in the respective rooms.

These seals were respected so long as there was any Mexican establishment left to be sacked, but this source being exhausted, they did go so far in their licentious practice as to break my official seals. One Jesus Cantee, who undertook this act of violation, was warned by the man who guards the rooms, and notified that if he had to enter the rooms he had to first call on me to remove the seal, as only myself could remove it. This warning was insultingly disregarded by Cantee, who stated he was ordered by Pedro A. Valdes to proceed in the manner he did.

I have reason to believe that, after such violation took place by breaking seals, the next will be the breaking into the houses so sealed and sacking of the American property stored therein; and I cannot see how I can protect the same against a band of outlaws who are reigning now in this town in the name of the legitimate government of Mexico. These men know well that their force is the only so-called government force left in the State, and know also well that they cannot hold this place long, and it seems to be their intention to harvest while they are in possession of it. They have made all preparations to go across the river in the event this place is attacked by the revolutionists, but before may destroy the town by fire, through the dangerous works they have made in defense of the place.

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A part of the cotton detained in Eagle Pass is crossing now below that place, through the lines of the revolutionists, by consent of Valdes, who received, for his permit to cross, one hundred and fifty bales, the sum of $240. Pedro A. Valdes, the representative of the legitimate government, having thus been satisfied, the collector of customs at Eagle Pass objected no longer to allow this cotton to be exported outside of his port, although full duties must be paid to revolutionists. These trains were detained on the Texas side over twenty days, and their expenses amount to thousands of dollars.

Colonel Falcon, the chief of the revolutionists, is three miles distant from this place, and it is reported that his force is a very large one, and that his intention is, in order to avoid bloodshed, not to attack, but besiege the town until Valdes surrenders or goes to the Texas side. The men of Valdes being not paid and very badly cared for, desert in great numbers to the Texas side. For each impressed man it takes the vigilance of another to prevent his desertion.

By this unfortunate struggle, this and the adjoining districts are ruined for many years to come; particularly this town, by the acts of Valdes, is reduced to poverty. Men who were transacting a fair business are ruined entirely; not only have they lost all they had, but also their credit, by not being able to pay their debts, and not even the hope of a new starts remains to them. Many of these men will probably engross the files of professional revolutionists, with the intention to repay themselves in revolutions for what they have lost through them.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

[Inclosure.]

Messrs. Harrison and Bronaugh to Mr. Schuchardt.

MOLINO DEL NORTE HACIENDA DE SARDINAS,
Coahueld, Mexico, December 16, 1871.

MY DEAR SIR: The state of war which exists at present in this State, between the government, or Juarez party, and a rival faction, seems to be fraught with as much evil to citizens of the United States, resident of or traveling in Mexico, as to citizens of Mexico taking an active part in hostilities. Some of the chiefs seem to take great pleasure not only in insulting the United States in the persons of her citizens, but allow in robbing them of their property, thereby preventing them from following the ordinary avocations by which they gain a living. It is but just to say that the Diaz party have shown a much better disposition toward Americans than the Juarez party.

A few days ago, December 12, at sunset, and on the Hacienda de Sardinas, soldiers of the Juarez party, by order of one Lieut. Col. Bueno, commanding the detachment, drove off the premises of J. H. Harrison & Co., at Molino del Norte, caught and appropriated three horses, one the property of Mr. Harrison, the other two the property of Dr. Bronaugh, practicing physician, located at San Buena Ventura.

The doctor and several friends remonstrated with Lieut. Col. Bueno, stating that it was impossible for him to attend to his patients unless they left him one horse. That officer replied that the constitution of Mexico not only gave him authority to appropriate the property of citizens of the United States, but also to impress them into the military service of Mexico, and that he would take the doctor and friends along as soldiers if he did not cease his remonstrances. The horse was an exceedingly fine and gentle one, and the doctor had refused to take $500 for him. The lieutenant colonel aforesaid had a drove of some forty loose horses good for service when this was done, so there was no excuse for his high-handed act on the ground of necessity. His manner was exceedingly insulting, and his whole bearing that of a robber chief rather than an officer of the regular army of a friendly power. Finally he refused to give a receipt showing that he had taken the horses, promising to return within two days at farthest. It only remains for us to send this statement of the facts to you, and through you to our Gov-

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ernment, in order that we may receive some indemnity for this wanton and uncalled-for insult and robbery. In proof of which we also state that, late in the night, a number of the lieutenant colonel's band entered and searched the premises of J. H. Harrison & Co. for arms, saddles, bridles, &c., but finding none, offered to return the horse if the doctor would give him a pistol. It will be well to bear in mind the fact that the doctor offered to make the government of Mexico a present of Mr. Harrison's and his other, a saddle horse, valued at $150, if he would only return his riding-horse, so that he might continue his practice. And also that the doctor, a short time before, had attended this same lieutenant colonel in an attack of sickness, relieved him, and refused to charge him for his services because he was a soldier. The doctor does a practice worth from $50 to $60 per day when in the saddle. Now he is placed on foot miles from his home, where he had come with a very ill patient, without the means to purchase another horse, and where there are none for sale, owing to the wholesale robbery of this model officer of the regular army of the republic of Mexico.

Mr. Harrison values his horse at $100. We now lay these facts before you, hoping that something may be done to protect the persons and property of citizens of the United States, and that we may obtain some return for the damages sustained and some guarantee for the future.

J. H. HARRISEN.
FRANC'CO BRONAUGH.

Mr. WILLIAM SCHUCHARDT,
American Consul at Piedras Negras.

We, the undersigned, were eye-witnesses of the above facts, as the whole thing took place while we were enjoying the hospitality of Messrs. J. H. Harrison & Co., and must say that the gentlemen have represented the action of Lieut. Col. Bueno without exaggeration.

CHARLES A. JAMES,
Texas Military Institute.
C. T. COLLINS.
J. H. FLY.

No. 301.

Mr. Schuchardt to Mr. Hunter.

No. 80.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, July 15, 1872. (Rec'd Aug. 11.)

SIR: The following report relative to the condition of affairs in this district is respectfully submitted to the Department. The resources of this district are:

Agriculture, mining, stock-raising, and, up to the outbreak of the present revolution, the traffic in cattle and horses stolen from Texas, partly by Indians, but mostly by professional Mexican cattle-thieves.

The crops principally consist of Indian corn, wheat, sugar-cane, and cotton; besides, onions, red pepper, and beans are cultivated for export to Texas. Most of the corn is exported to Texas, for consumption in the United States military posts. Wheat also is exported, to some extent, to Texas and to the more populated places in the States of Nuevo Leon and Tamaulipas. Cotton is a well-paying crop, although the area planted is comparatively small. One manufactory making unbleached domestic, established in Mocmova, consumes all that is raised in this district, and, besides, imports Texas cotton. The wheat-crop of this year is already harvested and very abundant, and a cargo of three hundred and fifty pounds can be bought, at present, at the place where it is raised, at $2.50. The area planted in corn is not equal to that planted in former years, for the want of hands and for the depressed spirit of the farmers on account of the revolution. They say, "We plant the corn, but we do not know if we will harvest it." Sugar-cane is cultivated where

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water to irrigate is plentiful, and is worked up by a very primitive machinery in piloncillo, (a small loaf not weighing over one pound.) The juice of the cane is boiled down to the crystallization point, then stirred for some time with a stick to produce granulation, and then it is emptied into small earthen moulds. Molasses not being separated by this process, is rather an inferior substitute for sugar, but generally used as such by the poorer class here, and partly exported to Texas for consumption by the Mexican population of that State. Mescal, an alcoholic liquor, peculiar to Mexico is also manufactured in this district. The material for this liquor, the *Agave Americana*, (maguey,) grows wild in the table-lands, and is found in some places abundantly. When the plant attains the age of eight years, it is ripe for manufacture into mescal; then the plant is cut above the root and the leaves separated from the trunk. Stones are heated then, and interred, interspersed with the trunks until these are well cooked, through the heat of the stones, and when taken out of the ground the juice is pressed from them and put for fermentation in raw hides, hanged in a frame so as to form a vessel, and after the fermentation is terminated the wine is distilled in a very primitive apparatus, consisting generally in a big kettle covered with another, from which the vapor is conducted by a reed to the receiving-vessel. These distilleries are mostly established in deserts where the plants grow near by. Physicians attribute to mescal officinal qualities, and recommend the use of it in many diseases. In a few places grape-vines are cultivated extensively. Raisins, wine, and brandy are made of the grapes. The wine is manufactured the same way as in Spain or Portugal, and resembles very much the wines of those countries. Very few people know how or take the trouble to make the wine so as to keep good for any length of time, and this may be the reason why none is exported.

Cattle-raising is not carried on extensively, since beeves for consumers are procured very cheap from Texas. Fifty years ago this district was supplying some parts of the interior with young horses and mules, but since the continual revolutions commenced to desolate the country, and in consequence of that the Indians could invade it without resistance, the results of horse-raising are of little importance, and the horses raised now are hardly enough to supply the home market, and very few are exported. In the mountainous districts goats and sheep are raised. The castratos are separated at a certain time in the year from the herds, fattened, and driven slowly to the large cities of the interior, where they sell at good prices, the hides and tallow entered into commerce, and the meat consumed there. Most of the large fortunes in this district, I am informed, were accumulated in this traffic.

In minerals this district is very rich; for a long distance along the Rio Grande are abundant outcroppings of coal, indicating very extensive layers of this valuable mineral. About one hundred and thirty miles from here are several hot mineral-springs, but, no accommodations being provided there for the invalid visitors, they are rarely frequented; but the few persons who have used them, against rheumatism and similar sicknesses, left them restored to health, and recommend these springs very much to the public attention, and in particular to their fellow-sufferers. About one hundred and twenty miles from here, right at some of the eastern outrunners of the Sierra Madre, is the town of Santa Rosa situated. It was founded in 1737, by miners who worked the admirably rich silver-mines in the vicinity. According to the old town records, the production of silver of the Santa Rosa mines was enormous, but since Mexico accomplished its independence from Spain the mines fell in decadency, and were not worked in a noteworthy manner until lately, when

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several American companies engaged in preparing to work them on a scale that attracts attention and promises success, but at present they are kept back very much in their operations. On account of the political situation of the country most of their laborers are forced into military service. There are many rich mines waiting to be worked again, but which can be done with success only by Americans. Mexicans will not do it, and not many American capitalists will risk their money in this country while the long-desired protectorate of or the annexation to the United States is a fact which is considered as the only means to afford protection to people coming here to develop the resources of this country by investing their capital. Honest-working and industrious Mexicans, which are the unprejudiced of the country, express themselves as having arrived at the conclusion that a protectorate by the United States is the only remedy to pacify their unhappy country, affording them the guarantee which they never can expect from any of their own governments.

The Kickapoo Indians, who emigrated to this district in 1864 from Kansas, are living on an old plantation called El Nacimiento, thirty miles from Santa Rosa, and are under the direct supervision and protection of the authorities of that place. They make their living partly by cultivating the soil, and making mats, baskets, &c., and dressing deer-skins, and partly by engaging in the traffic of horse-stealing from Texas, very profitable for them and their Mexican protectors. Several years ago, a Mexican Congress voted $10,000 to subsidize these Indians in buying agricultural implements and cattle, but these funds were retained by the State government until a year ago, when it became known that a delegation composed of United States Indian agents and Kickapoos from Kansas was on its way to Santa Rosa to induce the Kickapoos to return to their reservation in Kansas. Then the government of this State (Coahuila) sent a commissioner to Santa Rosa with $3,000 to divide among the Indians, but at the time the delegation arrived in Santa Rosa said commissioner had only given them a little corn and a few beeves, worth about three hundred dollars. The Indians, having knowledge of the whole amount sent for them, became dissatisfied, listened to the propositions of the Kansas delegation, and most of them agreed to leave Mexico. When the Mexican agent saw this he commenced to bribe several of the influential chiefs, and by that he obtained his object, which was to frustrate that of the mission of the American delegation. So soon as the Americans had left Santa Rosa, the Mexican agent being convinced of the failure of that mission, not one more dollar was given to the Indians by him.

The benefit the Mexicans derive from the staying of these Indians in Mexico, besides the supply of cheap horses, is the protection they afford against the invasion of their district by other savage tribes. The Mexican government, which cannot any longer misapprehend the good faith of the United States Government in its exertions made to stop the hostile incursions of these Indians in its own territory by inducing them to leave Mexico, expending thousands of dollars for that purpose, and the Mexican government having done its best to counteract these sincere exertions of the United States Government by its underhand dealing, it should be held directly responsible for all the depredations committed by the Kickapoos on our Texas frontier.

The Lipans and Mescaleros are also Indians of Mexico, and continually invade Texas, committing depredations there. They do not live in a certain locality of Mexico, but whenever they have made a successful raid into Texas they return to this district and ask for peace, which always is conceded to them by the Mexican authorities. Then the Mexicans buy

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their Texas plunder, supplying them in exchange with powder and lead, lance-blades, and arrow-points, &c.; in fact they fit them out for a new campaign against the citizens of their sister republic, for which they always profess a great friendship in public. Two years ago even the collector of the Piedras Negras custom-house sent his commandante of inspectors, Pedro A. Valdes, to the camp of the Lipan Indians to trade off for stolen horses some cart-covers he had confiscated from the carts of some poor freighters, the covers being apparently new and bought in Texas. Among the horses so obtained appeared one of Mr. Adams's, who was murdered, with two other men, a very short time before, near the Careza, about sixty miles below Eagle Pass, Texas.

In the same spirit these Indian depredations in Texas were considered by the Mexican government; the cattle-stealing by Mexicans was (that is to say) protected by it, it seems, as the government thought to benefit by it its own people; it did not concern it if so many innocent Texan families were sacrificed by its winking at these crimes.

Although the cattle-stealing from Texas has ceased since the government bands evacuated this frontier and became refugees on the Texas side, it had reached before the outbreak of the present revolution such extension that it has nearly ruined many of our frontier stock-raisers in Texas. To show that the cattle-stealing could be carried on so extensively as it was only by being, so to speak, officially protected, I mention one of many cases reported to me, as an illustration. Senor Don José Maria Ramirez contracted with Juan Manuel Ramos to deliver him (Ramirez) a drove of beeves, promising Ramos for all he could bring eight dollars per head. Ramos crossed over to Texas, stole the beeves, and on offering to turn them over to Ramirez the latter refused to pay him the price as per contract, offering him only $5 per head, which Ramos declined to accept, declaring that he would take the beeves to the market in the interior himself. Ramirez said this was all very well, but he should get the documents from the Piedras Negras custom-house necessary for his trip to the interior, if he could obtain them, and without which he would see the beeves confiscated by the Mexican inspectors, and he (Ramos) would lose all. Ramos seeing the truth of this well enough, and knowing his inability to procure the documents, agreed to sell the beeves to Ramirez for $8 per head, payable on the return of Ramirez from Saltillo with the money for the beeves sold. When Ramirez returned from the trip, and Ramos asked him for the money for the beeves, he was told by Ramirez that he did not owe him anything, and if he was not satisfied he could sue him, which Ramos knew he could not do without accusing himself as a cattle-thief. In the association which carried on this contemptible traffic, Ramos belonged to the class of the agents who did the stealing, while Ramirez was one of the respectables of the ring, who procured from his associates in the custom-house the necessary documents for the transit of the stolen cattle to the interior, and, in case thieves were captured, he went to have them released from prison by his influence. Ramirez is a man of a low education, but partly by his activity, and partly by transactions similar to those mentioned, realized some capital, and by giving occupation to some people, and having others obliged to him through his knowledge of their crimes, he created for himself a great influence over them, which he exercised in elections to his own and the advantage of those who in recompense protected him against the laws he violated at all times, and which he knew he could defy with impunity, and so he became one of the prominent men of his district, who could dictate to the local authorities what he thought proper they should do. In the election just before the outbreak of the present revolution, Ramirez was elected a member of the

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legislature of the State of Coahuila, it is said, by the instructions to the local authorities of this district by Governor Cepeda.

There are many good and honest men living in this district, who, mortified and ashamed to witness such things carried on nearly public, were opposed to such management of public justice, and who attempted for the sake of the honor of their country to put a stop to these outrages; but they very soon found out that by this they were fighting the State government, and all they earned for their good-will was persecution by the higher authorities of the State through those of their residence, and being called unnatural sons of their country (*hijos inatural de su patria*) who to the benefit of foreigners would disclose the misdeeds of their own countrymen.

The military of the United States forts along the line are indefatigable in their exertions to persecute the depredating Indians and Mexican cattle-thieves, and deserve justly the thanks of the people of the frontier; but their efforts will never be crowned by success of any importance so long as the Rio Grande, constituting the line between the United States and Mexico, serves as a safeguard for these marauders of Mexico. It is an undeniable fact, that the best and most intelligent men in the present political movement belong to the revolutionary party, for which, however, they did not declare until they were beaten by the government party in the late election for State officers through the forcible means and machinations of the federal and municipal authorities. Although considering rebellion a great wrong in itself, any man who honestly and impartially observed the progression of affairs can excuse these people in some respect, who strive that their nation's honor shall not be stained any longer by the disgraceful conduct of the worst men of their district and the protection offered to them by the authorities.

However good the disposition of the federal government of Mexico relative to the affairs on this frontier might have been, it seems it had not the power to enforce its decrees in these remote States. This clearly appears, for instance, in the irregularity of the custom-house laws, which are the same all over Mexico, as executed on this line, where the duties are collected in three different ways; on the lower Rio Grande up to Laredo the so-called "*zona libre*" exists, because it is the will of the people of Tamaulipas that it should exist, being to their benefit, and they at all times have threatened rebellion, should this privilege be taken away from them. In the custom-house of this State (Coahuila) the duties according to the tariff are collected, while in the custom-house in the State of Chihuahua only the third part of these duties are collected, and by this a great deal of traffic being attracted to that State, the governor of it therefore sustains the custom-house officials of the federal government to discharge their duties in this way.

Although the merchants of this district complained at different times in Mexico against the privileges Tamaulipas and Chihuahua enjoyed to the detriment of their own trade, it never could be remedied by the federal government.

I have related so circumstantially matters contained in this report with the intention to impart knowledge of the same as exact as possible to the Department.

My insight in these affairs I have acquired through close observation by myself during a long time, and through statements made to me by reliable persons of the district.

I am, sir, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

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No. 302.

Mr. Schuchardt to Mr. Hunter.

No. 86.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, August 29, 1872. (Rec'd Oct. 9.)

SIR: I have the honor to report to the Department that at Taragoza, (formerly San Fernando), situated about thirty-six miles northwest from this place, Indians hostile to the United States arrived, asking the authorities to be allowed to come in and stop temporarily at a place called "El Remolino," which is about twenty-one miles farther on in the same direction, for the purpose to trade with the Mexicans. The tribes to which these Indians belong are mentioned as the Lipans, the Mescaleros, the Gileñas, (named after the river Gila,) and the Comanches, and their number is given as 400 families. Although the authorities expressed their determination to grant the peace these Indians ask for only under the condition that they would move off a greater distance from the frontier, they being hostile to the United States, it was not considered convenient for these authorities to harbor them so near to that country. It is generally believed that the Indians will stop at the place they have selected already. There is no sufficient force here at present to enforce the mandate of the authorities. Several men have already bought goods in this place for the purpose to trade them off to these Indians at the Remolino, and there is no doubt that many horses stolen by them in Texas are among the plunder they bring with them now.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

No. 303.

Mr. Schuchardt to Mr. Hunter.

No. 87.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, September 1, 1872. (Rec'd Oct. 9.)

SIR: Since I wrote my No. 86, dated August 29, three Indians, one Comanche chief, whom they call Takirera, and two Lipans, came in. One of the latter, an old man, called by the Mexicans Costalito, lived for a number of years in one of the villages of this district, planting corn and raising stock. He speaks the Spanish language tolerably well. He sometimes hunts up his tribe to trade with them or carry messages. He says that his companion, the Comanche chief, comes from way up north, from that country east of New Mexico; that the Kiowas and many other tribes are preparing for war against the United States, who keeps some chiefs of them prisoners in the penitentiary of Texas. That they have plenty of repeating-arms and needle-guns, and the corresponding ammunition; that they had attacked near the railroad, several times, trains, and took from them all the arms, together with the ammunition; and Costalito, pointing to a blue blanket, with a narrow white stripe on the edges, in which Takerera is wrapped, said that up there Takerera's people were receiving all the time plenty of clothing and provisions from the United States Government. Costalito says that now only twelve families were coming, but that in case peace was granted to them by the

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Mexicans, and the cold season was over and the grass growing, then very many would come down here.

There is all probability that peace will be granted to them by the Mexican authorities, the country being without the means to offer resistance to their coming. The Comanches have been ever the most savage enemy Mexico had, murdering her people and carrying into captivity their children. They also were enemies of the Lipans, Kickapoos, and other tribes who live in Mexico. Now they select the Lipans as their mediators to obtain peace for them. The Lipans were also bitter enemies of the Kickapoos and Pottawatomies, but on meeting them while in town they saluted them very friendly, shaking hands with each other.

May all this not mean an invitation by the Kiowas, through the Comanches, to all these tribes to unite against the United States; or is their intention, by selecting this part of the country to be peaceable in, for the purpose to establish their headquarters nearer the field of their operations in the intended war with the United States, to be carried on in Texas; or is it because they (the Comanches) are opposed to that war, and by coming here keep out of it? But, then, why did they not apply for peace in Chihuahua, which is much nearer to their country? The locality of their present selection is only forty miles distant from the Rio Grande, that insurmountable barrier for our brave soldiers when in pursuit of depredating Indians. The good men among the Mexicans oppose granting peace to these Indians. They say it only would increase the trouble which the Kickapoo Indians are causing them already with their neighbors the Texans; but, at the same time, they are unable to see how the Mexican government could prevent them from coming in the country.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

No. 304.

Mr. Schuchardt to Mr. Hunter.

No. 97.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, Jan. 20, 1873. (Rec'd Feb. 15.)

SIR: Since this section of the country has returned to its constitutional condition, and the anti-revolution officials to their old positions, the lawless people also have returned to their old occupation—the stealing of cattle from Texas.

On the 13th instant a drove of 140 head of cattle was brought in by the custom-house guards, who stated that they had captured said cattle because those who conducted it had no custom-house documents to show that they had paid the duties, and that they escaped when these cattle were captured—consequently, these cattle were declared a legal seizure by the administrator of this custom-house; but Mr. Charles Virion and others from the Pendencia, some thirty miles below Eagle Pass, Texas, who claimed the said cattle as their property stolen from them, and who identified their respective brands, obtained it by paying $225 to the administrator for herders' fees. To be able to pay this sum, the owners were obliged to sell their cattle here at $4 per head.

I have since received information from a reliable source that when the said cattle were seized the thieves also were captured, but turned loose

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again by the commandant of the custom-house guards. Against this act of the commandant the alcalde of Presidio de Rio Grande, in whose jurisdiction the thieves were taken prisoners, protested in a communication to the administrator of this custom-house.

On the 15th instant a second drove of 36 head of cattle were brought in. This was taken from the thieves, who escaped, by the agents of the alcalde of Presidio de Rio Grande, and sent in by him for the purpose to be returned to the owners, and, thus showing his good-will, induce the Texas authorities to do the same with stock stolen from Mexico and found on the American side of the Rio Grande. The said drove belonged also to the owners of the 140 head, and was returned to them together with the same.

Another drove was attempted to be crossed over from Texas; but the thieves, seeing themselves in the act of crossing it watched by the agents of the alcalde of Rio Grande, dispersed the cattle again on the Texas side.

The alcalde of Presidio de Rio Grande, (a town fourteen leagues below here,) who is an honest man, seems to make all efforts to stop these depredations of his lawless countrymen on citizens of the United States, but it is doubtful whether he will earn the thanks, or even the approval, of his superiors for his zeal in this matter.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

No. 305.

Mr. Schuchardt to Mr. Hunter.

No. 101. UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, March 29, 1873. (Rec'd April 10.)

SIR: Dr. A. Adams, an American resident of Zaragoza, (San Fernando,) a Mexican town thirty-six miles from here, communicates to me that he has received information through Ramon Perez, a Mexican of that place, that from three to four hundred Indians are encamped in the cañon San Rodrigo, about two days' riding north from Zaragoza, and one and one-half days from the Remolino, and in a direct line probably not over sixty miles from the Rio Grande; that the said party is composed of Lipans, Mescaleros, and Comanches; that they had recently returned from a campaign into Texas, bringing a large drove of horses and mules with them. The said Ramon Perez also saw in the camp of these Indians a boy, which he thinks is German and about eight years old, but to whom he was not allowed to speak. The Lipan who had the boy in possession said he had bought him from the Comanches. Dr. Adams says that there is no chance to rescue the boy through the Mexican authorities; the moment a request would be made by them on the Indians they would leave the neighborhood of the settlements. The Mexican Ramon Perez, who has gone again to the Indian camp, is authorized by Dr. Adams to ransom the boy from the Indians if possible. This he considers the only way to recover him, and in case Perez does not succeed in that, he will try to bring at least such information which may lead to the discovery of the home of the unfortunate boy. Washa-lo, an old Lipan who carries on trade all the time between the settlements and his tribe.

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told that he and his brother were present when five different tribes of Indians made a treaty with the whites at a place at which to arrive it took him twelve days' riding; that he had received there from the whites money and provisions, and also a paper in which was stated that he and his brother had been present at the treaty. Washa-lo is known among the Mexican people as a story-teller, and they doubt a great deal of what he says when he comes in from time to time.

The *colonias militares*, (military detachments for the defense of this frontier of Mexico,) which had been called away at the outbreak of the late revolution, have not been re-established yet.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

No. 306.

Mr. Schuchardt to Mr. Hunter.

No. 105.] UNITED STATES COMMERCIAL AGENCY,
Piedras Negras, Mexico, May 17, 1873. (Rec'd May 28.)

SIR: In my No. 103, dated May 8, 1873, I communicated to the Department that, besides that boy which was redeemed from the Indians, another one was with them, but that he could not be gotten because his present master was absent from the camp on a raid into Texas.

A few days ago I had sent an agent again to the Lipan and Mescalero camp with instructions to penetrate, if possible, through all the different camps in order to ascertain if there are any more white captives among the Indians, and if possible to ransom them. Yesterday my agent returned from there, and brings me the following information: That from the Remolino, up along the river San Rodrigo, on which Remolino is situated, are at short distances various Indian camps of Lipans, Mescaleros, and Kickapoos; the latter have been supplied with water for irrigating land they have planted in corn; that all the Lipans and Mescaleros, except the old men and women, had started on a raid into Texas; that in one of the Mescalero camps, which is seven leagues distant from the Remolino, there is a white woman and child, who were captured by one of the chiefs, Azate, in Texas, some time last winter, after he had killed her husband. This was related by Azate himself, who had made a present of the pistol of his victim to a Mexican friend; that he (my agent) did not succeed in redeeming any captives, because all the male Indians were absent on a raid in Texas. The facts in regard to these Indians in their relation to Mexico are: they are Indians hostile to the United States, depredating continually in Texas, capturing children and murdering their parents, and stealing the stock of the Texans, and whenever they have accumulated sufficient plunder, and see it convenient to come to the Mexican towns, peace is granted to them without exacting from them any conditions whatever—such as to give up to the authorities their captives, or horses and mules stolen, and they are supplied, with the knowledge of the authorities, by Mexicans with ammunition of war and arms, who receive in payment the horses and mules stolen from Texas; and from their temporary camps, close to the Mexican towns, parties start daily, with the knowledge of the Mexican authorities, on forays into Texas, and no measures are taken, neither by the federal

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government of Mexico nor by the State government of (Mexico) Coahuila, to prevent these outrages committed by these savages on the citizens of the United States.

I am, &c.,

WM. SCHUCHARDT,
United States Commercial Agent.

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